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PART IV

Section 1-A

CENTRAL BILLS AND REORTS OF SELECT

NOTIFICATION.

(LAW DEPARTMENT)

No. LAW 18 LCA 66, Bangalore, dated 6th—20th June 1966.

Ordered that the Constitution (Nineteenth Amendment) Bill, 1966 (Bill No. 36 of 1966), which has been published in the *Gazette of India*, Extraordinary, Part II, Section 2, dated the 9th May 1965, be republished in the *Mysore Gazette*, for general information.

By Order and in the name of the Governor of Mysore,

26 H. K. ANANTHASUBBA RAO,
Under Secy. to Govt., L. D.

LOK SABHA

The following Bill was introduce in Lok Sabha on the 9th May 1966 :—

BILL No. 36 OF 1966

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

1. **Short title.**—This Act may be called the Constitution (Nineteenth Amendment) Act, 1966.

2. **Amendment of article 3.**—In article 3 of the Constitution the following *Explanations* shall be inserted at the end, namely :—

'*Explanation I.*—In this article, in clauses (*a*) to (*e*) "State" includes a Union territory, but in the proviso, "State" does not include a Union territory.

Explanation II.—The power conferred on Parliament by clause (*a*) includes the power to form a new State or Union territory by uniting a part of any State or Union territory to any other State or Union territory.'.

STATEMENT OF OBJECTS AND REASONS

Article 3 of the Constitution provides for the formation of new States and alteration of areas, boundaries, or names of existing States. Before the Constitution (Seventh Amendment) Act, 1956, was enacted, the expression "States" occurring in that article meant Part A States, Part B States and also Part C States. By the Seventh Amendment of the Constitution in 1956, the concept of "Union territories" was introduced in our Constitution but article 3 was not amended to include *in terms* "Union territories". It is considered proper to amend this article to make it clear that "State" in clauses (*a*) to (*e*) of that article (but not in the proviso) includes "Union territories". It is also considered proper to make it clear that power under clause (*a*) of article 3 includes power to form a new State or Union territory by uniting a part of a State or Union territory to another State or Union territory.

The Bill seeks to achieve the above objects.

NEW DELHI;
The 30th April, 1966.

G. L. NANDA.

S. L. SHAKDHER, *Secy.*

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PART IV

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CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON

NOTIFICATION.

(LAW DEPARTMENT).

No. LAW 74 LCA 65, Bangalore, dated 16th December 1965.

In pursuance of the adoption of a motion by Lok Sabha that the Sikh Gurdwaras Bill, 1964 by Sardar Amar Singh Saigal, M. P., be circulated for the purpose of eliciting opinion thereon by 28th February 1966, it is hereby ordered that the said Bill be published along with the Statement of Objects and Reasons for general information.

Any person or public body desirous of submitting opinion on the provisions of the Bill may send the same in quadruplicate to the Secretary to Government, Law Department, Vidhana Soudha, Bangalore-1, before the 10th February 1966, for being forwarded to the Lok Sabha Secretariat.

It is requested that opinion, if any, should not be submitted direct to the Lok Sabha Secretariat or to any Ministry of the Government of India.

By Order and in the name of the Governor of Mysore,

H. K. ANANTHASUBBA RAO,

51 *Under Secy. to Govt., L. D.*

As Introduced in Lok Sabha on
4th December 1964

Bill No. 75 of 1964

THE SIKH GURDWARAS BILL, 1964

By

Sardar Amar Singh Saigal, M.P.

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Bill No. 75 of 1964

THE SIKH GURDWARAS BILL, 1964

By

SARDAR AMAR SINGH SAIGAL, M. P.

A

BILL

to provide for better administration of Sikh Gurdwaras situated in different States of Indian Union and for inquiries into matters connected therewith.

BE it enacted by Parliament in the Fifteenth Year of the Republic of India as follows.—

PART I

Preliminary

1. Short title, extent and commencement.—(1) This Act may be called the Sikh Gurdwaras Act, 1964.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf.

2. Definitions.—In this Act unless the context otherwise requires—

(1) "board" means the Shiromani Gurdwara Parbandhak Committee constituted under the provisions of this Act.

(2) (*i*) "committee" means a committee of management constituted under the provisions of this Act.

(*ii*) "advisory committee" means a committee constituted under the provisions of section 55.

(3) "commission" means the Judicial Commission constituted under the provisions of this Act.

(4) (*i*) "office" means any office by virtue of which the holder thereof participates in the management or performance of public worship in a gurdwara or in the management or performance of any rituals or ceremonies observed therein and "office holder" means any person who holds an office

(*ii*) "present office-holder" means a person who, on the commencement of this Act, holds an office.

(*iii*) "past office-holder" means a person who was an office-holder but ceased to be an office-holder before the commencement of this Act.

(*iv*) "hereditary office" means an office the succession to which before the first day of January, 1920 devolved according to hereditary right or by nomination by the office-holder for the time being, and "hereditary office-holder" means the holder of a hereditary office.

(*v*) "present hereditary office-holder" means a person who at the commencement of this Act is a hereditary office-holder.

(*vi*) "past hereditary office-holder" means a person who was a hereditary office-holder but ceased to be such office-holder before the commencement of this Act

(*vii*) "minister" means an office-holder to whom either solely or along with other the control of the management or performance of public worship in a Gurdwara and of the rituals and ceremonies observed therein is entrusted.

(5) "district" means a revenue district specified by the respective State Governments.

(6) "prescribed" means prescribed by the rules made under this Act.

(7) "presumptive successor" where the succession to the office devolves according to hereditary right, means the person next in succession to a hereditary office-holder, or, where the succession to the office devolves by nomination made by the hereditary office-holder for the time being means any *chela* so nominated before the first day of January, 1957.

(8) "resident" in any place means any person having a fixed place of abode or owning immovable property or land or practising a profession or carrying on business, or personally working for gain, in that place.

(9) "Sikh" means a person who professes the Sikh religion or, in the case of a deceased person who professed the Sikh religion or was known to be a Sikh during his life-time. If any question arises as to whether any living person is or is not a Sikh, he shall be deemed respectively to be or not to be a Sikh according as he makes or refuses to make in such manner as the Central Government may prescribe the following declaration.

I solemnly affirm that I am a Sikh, that I believe in the Guru Granth Sahib, that I believe in the Ten Gurus, and that I have no other religion.

(10) "Amritdhari Sikh", includes every person who has taken *Khande-ka-amrit* or *Khanda pahul* prepared and administered according to the tenets of Sikh religion and rites at the hands of five *pyaras* or 'beloved ones'.

(11) "*patit*" means a person who being a Keshadhari Sikh trims or shaves his beard or *keshas* or who after taking *amrit* commits any one or more of the four *kurahits*.

(12) "notified Sikh Gurdwara" means any Gurdwara declared by the Central Government by notification in the Official Gazette to be a Sikh Gurdwara under the provisions of this Act.

(13) "treasury" means a Government Treasury or sub-treasury and includes any bank to which the Government treasury business has been made over.

(14) "tribunal" means a tribunal constituted under the provisions of this Act.

PART II

Petitions to Central Government relating to Gurdwaras

3. Sikh Gurdwaras and properties belonging to then.—(1) Any Sikh or any present office holder of a Gurdwara situated in India may forward to the Central Government within ninety days from the commencement of this Act, a list signed and verified by himself of all rights, titles or interests in immovable properties situated in India inclusive of the Gurdwara and in all monetary endowments yielding, recurring income or profit received in India, which he claims to belong, to the best of his knowledge to the Gurdwara; the name of the person in possession of any such right, title or interest and if any such person is insane or minor the name of his legal or natural guardian and if any such right, title or interest is alleged to be in possession of the Gurdwara through any person, the name of such person shall be stated in the list and the list shall be in such form and shall contain such further particulars as may be prescribed.

(2) On receiving a list duly fowarded under the provisions of sub-section (1) the Central Government shall, as soon as may be, publish a notification declaring that a Gurdwara to which it relates is a Sikh Gurdwara and after the expiry of the period provided in sub-section (1) for forwarding such lists shall, as soon as may be, publish by notification a consolidated list in which all rights, titles and interests in any such properties which have been included in any list duly fowarded, shall be included and shall also cause the consolidated list to be published in such manner as may be prescribed.

(3) The Central Government shall as soon as may be, send by registered post, a notice of the claim to any right, title or interest included in the consolidated list to each of the persons named therein as being in possession thereof either on his own behalf or on behalf of the Gurdwara;

Provided that no such notice shall be sent if the person named as being in possession is the person who forwarded the list in which the right, title or interest was claimed.

(4) The publication of a declaration and of a consolidated list under the provisions of sub-section (2) shall be conclusive proof that the provisions of sub-sections (1), (2) and (3) with respect to such publication have been duly complied with and that the Gurdwara is a Sikh Gurdwara and the provisions of this Act shall apply to such Gu dwara with effect from the date of the publication of the notification declaring it to be a Sikh Gurdwara.

4. **Effect of omission to forward a list under section 3.**—If, in respect of any Gurdwara in India, no list has been forwarded under the provision of preceding section, the Central Government shall, aft r the expiry of ninety days from the commencement of this Act, declare that such Gurdwaras shall be deemed to be excluded from specification.

5. **Petitions of claims to property included in consolidated list and signing and verification thereof.**—Any person may forward to the Central Government within ninety days from the date of publication of notification under sub-section (2) of section 3, a petition claiming a right, title or interest in any property included in the consolidated list except a right, title or interest in the Gurdwara itself ; and such petition shall be signed and verified by the person forwarding it in the manner provided in the Code of Civil Procedure 1908, (5 of 1908) for the signing and verification of plaints and shall specify the nature and the grounds of the claim.

6. **Notification of property not claimed under section 5 and effect of such notification.**—The Central Government shall, as soon as may be, after the expiry of the period of making a claim under the provisions of section 5 publish a notification specifying the rights, titles or interests in any properties in respect of which no such claim has been made and the

publication of the notification shall be conclusive proof of the fact that no such claim was made in respect of any right, title or interest specified in the notification.

7. Petition to have a Gurdwara declared a Sikh Gurdwara.—(1) Any fifteen or more Sikh worshippers of a Gurdwara, each of whom is more than twenty one years of age and is a resident in the district in which the Gurdwara is situated, may forward to the Central Government within three years from the commencement of this Act or within such further period as the Central Government may by notification fix for this purpose, a petition praying to have the Gurdwara declared to be a Notified Sikh Gurdwara.

(2) A petition forwarded under the provisions of sub-section (1) shall state the name of the Gurdwara and of the district in which it is situated and shall be accompanied by a list verified and signed by the petitioners of all rights, titles or interests in immovable properties situated in India inclusive of the Gurdwara and all monetary endowments yielding recurring income or profit received in India which the petitioners claim to belong within their knowledge to the Gurdwara; the name of the person in possession of any such right, title or interest and if any such person is insane or minor, the name of his legal or natural guardian or if there is no such guardian, the name of the person with whom the insane person or minor is residing and if any such right, title or interest is alleged to be in possession of the Gurdwara through any person the name of such person shall be stated in the list.

(3) On receiving such petition, the Central Government shall, as soon as may be, publish it along with the accompanying list and shall cause it and the list to be published in such manner as may be prescribed at the headquarters of the District in which the Gurdwara is situated and shall also give such other notice thereof as may be prescribed :

Provided that such petition may be withdrawn by the Board at any time before publication and on such withdrawal,

it shall be deemed as if no petition had been forwarded under the provision of sub-section (1).

(4) The publication of a notification under sub-section (3) shall be conclusive proof that the provisions of sub-sections (1), (2) and (3) above have been complied with.

8. Petition to have it declared that a place asserted to be a Sikh Gurdwara is not such a Gurdwara.—Any hereditary office holder or any fifteen or more worshippers of the Gurdwara, each of whom is more than twenty one years of age and was, at the commencement of this Act a resident of the district in which the Gurdwara is situated, may within ninety days from the date of publication of the notification under sub-section (3) of section 7 forward to the Central Government a petition signed and verified by the petitioner or the petitioners as the case may be, claiming that the Gurdwara is not a Sikh Gurdwara.

9. Effect of non-presentation of a petition under section 8.—(1) If no petition has been presented under section 8 in respect of a Gurdwara to which a notification published under sub-section (3) of section 7 relates, the Central Government shall after the expiration of ninety days from the date of said notification publish a notification declaring the Gurdwara to be a Sikh Gurdwara.

(2) The publication of a notification under sub-sectin (1) shall be conclusive proof that the Gurdwara is a Sikh Gurdwara and the provisions of this Act shall apply to the Gurdwara with effect from the date of the publicatfon of the notification.

10. Petition of counter claim.—(1) Any person may forward to the Central Government within ninety days from the date of the publication of a notification under sub-section (3) of section 7 a petition claiming a right, tlitle or interest in any property included in the list so published and such petition shall be signed and verified by the petitioner in the manner provided by the Code of Civil Procedure 1908 (5 of 1:08) for the signing and verification of plaints and shall specify

the nature of the right, title or interest claimed and the grounds of the claim.

(2) The Central Government shall as soon as may be, after the expiry of the period for making such claim publish a notification specifying the rights, titles or interests in respect of which no such claim has been made and the notification shall be conclusive proof of the fact that no such claim was made in respect of any right, title or interest specified in the notification.

11. Claim for compensation by hereditary office holder or his presumptive successor.— Any hereditary office-holder of a Gurdwara in respect of which a notification has been published under sub-section (3) of section 7 or a presumptive successor of such office-holder may forward to the Central Government within ninety days from the date of such publication a petition claiming to be awarded compensation on the ground that such office-holder or his presumotive successor will suffer pecuniary loss if the Gurdwara is declared to be Sikh Gurdwara and such petition shall be signed and verified by the petitioner in the manner provided in the Code of Civil Procedure, 1908 (5 of 1908) for the signing and verification of plaints.

PART III

Appointment of and proceeding before a Tribunal

12. Constitution and procedure of Tribunal.—(1) For purpose of deciding claims made in accordance with the provisions of this Act, the Central Government may from time to time appoint one or more Tribunals consisting of—

(a) A president who shall be a retired judge of a High Court.

(b) Two other members of whom one shall be a District Judge and the other shall be an advocate of a High Court who has been in practice for a period of not less than ten years.

Provided that nothing in this sub-section shall be deemed to prevent the appointment of a President of the Tribunal before the appointment of any other member.

(2) Whenever a vacancy occurs in a Tribunal by reason of the removal, resignation or death of a member, the Central Government shall appoint another person to fill the vacancy and upon his joining the Tribunal the trial shall be continued as if he has been on the Tribunal from the commencement of the trial.

(3) If more Tribunals than one are constituted, the Central Government may by notification direct which Tribunal may entertain petitions relating to a particular Gurdwara or Gurdwaras situated in any state and may at any time transfer any proceedings from one Tribunal to another as it may deem proper.

(4) A Tribunal shall have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (5 of 1908) and shall have unlimited jurisdiction as regards value throughout India and shall have no jurisdiction over any proceedings other than that expressly vested in it by this Act.

(5) The proceedings before a Tribunal shall so far as may be and subject to theprovisions of this Act. be conducted in accordance with the provisions of the Code of Civil Procedure, 1908: (5 of 1908)

Provided that no proceeding shall be taken by a Tribunal unless at least two members are present;

Provided further that notices and summons may be issued by the President of the Tribunal or a member nominated by the President for this purpose.

(6) In case of a difference of opinion between the members of the Tribunal the opinion of the majortity shall prevail;

Provided that if only two members are present of whom one is the President and if they are not in agreement, the opinion of the President shall prevail; and if the President

be not present and the two remaining members are not agreed, the question in dispute shall be kept pending until next meeting of the Tribunal at which the President is present and the opinion of the majority or of the President when only two members are present, shall be deemed to be the opinion of the Tribunal.

(7) Save as otherwise provided in this Act a decree or order of a Tribunal shall be executed or otherwise given effect to by the District Court of the District in which the Gurdwara in connection with which the decree or order was passed is situated, as if the decree or order had been a decree or order passed by such Court.

(8) The Central Government shall forward to a Tribunal all petitions received by it under sections 5, 6, 8, 10 and 11 for disposal thereof in accordance with the provision of this Act and the forwarding of petitions shall be conclusive proof that the petitions were received by the Central Government within the time prescribed in sections 5, 10 and 11, as the case may be.

13. Issue as to whether a Gurdwara is a Sikh Gurdwara.—(*1*) Notwithstanding anything contained in any other law in force, if in any proceeding before a tribunal it is disputed that a gurdwara should or should not be declared to be Sikh Gurdwara, the tribunal shall, before enquiring into any other matter in dispute relating to the said gurdwara, decide whether it should or should not be declared a Sikh Gurdwara in accordance with provisions of sub-section (*2*).

(2) If the tribunal finds that the gurdwara—

(*i*) was established by, or in memory of the Ten Sikh Gurus, or in commemoration of any incident in the life of any of the Ten Sikh Gurus and was used for public worship by Sikhs, before and at the time of the presentation of the petition under sub-section (*1*) of section 7, or

(*ii*) owing to some tradition connected with one of the Ten Sikh Gurus, was used for public worship predominantly by Sikhs, before and at the

time of the presentation of the petition under sub-section (*1*) of section 7, or

(*iii*) was established for use by Sikhs for the purpose of public worship and was used for such worship by Sikhs, before and at the time of the presentation of the petition under sub-section (*1*) of section 7, or

(*iv*) was established in memory of a Sikh martyr, saint or historical person and was used for public worship by Sikhs, before and at the time of the presentation of the petition under sub-section (*1*) of section 7, or

(*v*) owing to some incident connected with the Sikh religion was used for public worship predominantly by Sikhs, before and at the time of the presentation of the petition under sub-section (*1*) of section 7,

the tribunal shall decide that it should be declared to be a Sikh Gurdwara, and record an order accordingly.

(3) When a Tribunal has under the provisions of sub-section (2), recorded a finding that a Gurdwara should be declared to be a Sikh Gurdwara and no appeal has been instituted against such finding within the prescribed period or when an appeal has been instituted and dismissed or when in appeal against a finding that a Gurdwara should not be declared to be a Sikh Gurdwara, the High Court as the case may be, shall inform the Central Government and the Central Government shall as soon as may be, publish a Notification declaring such Gurdwara to be Sikh Gurdwara and the provisions of this Act shall apply thereto with effect from the date of the publication of such notification.

14. Presumption in favour of a Notified Sikh Gurdwara.—(1) In any proceedings before a tribunal, if any past or present office-holder denies that a right, title or interest recorded, in his name or in that of any person through whom he claims in a record of rights, or in an annual record, prepared in accordance with the provisions of the Land

Revenue Acts of various States and claimed to belong to a Notified Sikh Gurdwara, does so belong, and claims such right, title or interest belong to himself, there shall be a presumption that such right, title or interest belongs to the gurdwara upon proof of any of the following facts, namely,—

(*a*) an entry of the right, title or interest made before the first day of January 1957, in a record-of-rights, prepared at the time of general assessment of land revenue, in the name of the gurdwara or in the name of the holder of an office pertaining to the gurdwara as such, and not by name;

(*b*) an assignment of the land revenue, of, or of the proprietary right in, land at any time for the service or maintenance of the gurdwara notwithstanding that the assignment may be or may have been in the name of an office-holder, where the right claimed is an assignment of the land revenue of, or of the proprietary right in, the land, as the case may be;

(*c*) the dismissal or removal of an office-holder before the first day of January 1957 and the consequent transfer of the right, title or interest in question to his successor in office;

(*d*) the expenditure of the whole or part of the income derived from the right, title or interest in question ordinarily on the service or maintenance of the gurdwara;

(*e*) the acquisition of the right, title or interest in question from funds proved to have belonged to the gurdwara;

(*f*) the submission by the office-holder or any of his predecessors in office of accounts relating to the income from the right, title or interest in question to the worshippers or to a managing body;

(*g*) the devolution of the succession to the right, title or interest in question from an office-holder

to the successor in office as such on two or more consecutive occasions; and

(*h*) any other fact which shows that the right, title or interest in question was at any time of the nature of a trust pertaining to the gurdwara or was purchased from funds ofthe nature of trust funds pertaining to the gurdwara.

15. Claim for compensation by a hereditary office-holder who has resigned or has been dismissed.—Any hereditary office-holder of a Notified Sikh Gurdwara, who, within twelve months after the date of the publication of a notification declaring the gurdwara to be a Sikh Gurdwara, has resigned office, or been removed from office otherwise than in accordance with the provisions of section 63 or under the provisions of section 85 or a presumptive successor of such office-holder, may within ninety days from the date of the resignation or removal, as the case may be, of such office-holder present a petition to a tribunal claiming to be awarded compensation on the ground that he has suffered or will suffer pecuniary loss owing to a change in the management of the gurdwara, and the tribunal may, notwithstanding the fact that such office-holder has voluntarily resigned, order compensation to be paid in accordance with the provisions of this Act, as if such office-holder had been unlawfully removed from his office.

16. Matters for consideration in awarding compensation.—(1) In deciding claims for compensations made under the provisions of section 15, a Tribunal shall take into consideration :—

(*i*) the past conduct of the claimant where such conduct has been or is in issue in a suit or other proceedings in a civil or Revenue Court instituted before 1st January 1957;

(*ii*) the conviction of the claimant by a criminal court for an offence which in the opinion of the Tribunal involves moral turpitude or an order passed against himunder the provisions

of sections 109 , 110 and 118 of the Code of Criminal Procedure, 1898 (5 of 1898);

(*iii*) the loss of income, not being of the nature of trust income, incurred by reasons of an office-holder ceasing to hold office; and

(*iv*) all rights or privileges relating to residence, subsistence, service and other recognized allowances in cash or kind formerly enjoyed by the claimant.

(2) In awarding compensation, a Tribunal shall, unless the parties agree to its being paid otherwise, order it to be paid out of the income accruing to the Gurdwara in which the office-holder held office in the form of an allowance payable annually on a specified date for any period but terminable in any case on the death of the person compensated.

(3) If any person to whom compensation has been ordered to be paid by a Tribunal dies, his heir shall be entitled only to such sum as has become payable under the order but has not been paid.

17. Manner in which compensation is to be paid or recovered.—Every sum ordered by a Tribunal to be paid out of the income of a Gurdwara by way of compensation shall be deposited in the treasury of the District Tehsil or Taluqa in which the Gurdwara is situated and shall be paid to the person or persons entitled to it under such order or under sub-section (3) of section 16 in such a manner as may be prescribed and if it is not so deposited, shall be recoverable out of the property or income of such Gurdwara by the Collector as if it were an arrear of land revenue.

18. Suit for possession of undisputed property on behalf of Notified Sikh Gurdwara.—(1) When a notification has been published under sub-section (2) of section 3 or sub-section (3) of section 7, the Committee of the Gurdwara concerned may bring a suit on behalf of the Gurdwara for the possession of any property, a proprietary title in which has been

specified in such notification provided that the Gurdwara concerned is entitled to immediate possession of the property in question and is not in possession thereof at the date of the publication of such notification.

(2) The suit shall be instituted in the principal Court of original jurisdiction in which the property in question is situated within a period of three years from the date of publication of such notification or from the date of the constitution of the Committee whichever is later.

19. Entry of rights of Gurdwara in revenue records.— When it has been decided under the provisions of this Act that a right, title or interest in immovable property belongs to a Notified Sikh Gurdwara or when a right, title or interest in such property has been included in a list published under sub-section (3) of section 5 or sub-section (3) of section 10, the Collector of the district in which the property is situated shall on application being made to him on this behalf, cause an entry to be made in the records-of-rights, if any, of the estate in which the property is situated, recording the Gurdwara as the owner of such right, title or interest.

20. Power of tribunal to pass decrees for possession in favour of the committees.—When it has been decided under this Act that a right, title or interest in immovable property belongs to a Notified Sikh Gurdwara concerned or the person in whose favour, a declaration has been made, either party may within a period of one year from the date of the decision or the date of the constitution of the committee whichever is later, institute a suit before a tribunal claiming to be awarded possession of the right, title or interest in the immovable property in question, as against the parties to the previous petition and the tribunal shall, if satisfied that the claim relates to the right, title or interest in the immovable property, which has been held to belong to the Gurdwara or to the person in whose favour the declaration has been made, pass a decree for possession accordingly.

21. Exclusion of jurisdiction of courts.—(1) No court shall continue any proceedings in so far as such proceedings involve any claim relating to a Gurdwara to which a notification has been published under the provisions of sub-section (2) of section 3 or in regard to which a notification has been published under sub-section (3) of section 7 if such claim could have been made through a petition under any of the provisions of this enactment unless and until such Gurdwara is excluded from the operation of this Act.

(2) No court shall entertain or continue any suit or proceedings in so far as such suit or proceedings involve any claim to or prayer for restoration of any person to an office in a notified Sikh Gurdwara or any prayer for the restoration or establishment of any system of management of a Sikh Gurdwara other than a system of management established under the provisions of this Act.

(3) When any place has been declared by notification under the provisions of this Act to be a Sikh Gurdwara, the right of any office-holder thereof who holds office on the date of the publication of such notification to continue to hold his office shall be decided in accordance with the provisions of this Act.

22. Transfer of suits pending in court.—(1) Where in any suit or proceeding pending at the commencement of this Act, or instituted after its commencement in a civil or revenue court, it has become or becomes necessary to decide any claim in connection with a Notified Sikh Gurdwara, which the court finds might be made under any of the provisions of this Act, within the prescribed time, the court shall frame an issue in respect of such claim and shall forward record of the suit or proceedings to a tribunal.

(2) The tribunal shall, thereupon, proceed to hear and determine such issue and record its decision in the form of an order and shall return the record with a copy of its decision to the court and the court shall then proceed to determine the suit or proceeding in accordance with such decision, subject to section 24.

23. No suit against Central Government or tribunal.—No suit shall lie in any court to question anything purporting to be done by the Central Government or by a tribunal, in exercise of any powers vested in it by or under this Act.

24. Appeals against order of Tribunal.—(1) Any party aggrieved by a final order passed by a tribunal determining any matter decided by it under the provisions of this Act, may within ninety days of the date of such order appeal to the High Court, within whose jurisdiction the gurdwara in connection with which the order has been passed, is situated.

(2) No appeal or application for revision shall lie against an order of a tribunal except as provided for in sub-section (1).

(3) An appeal preferred under the provisions of this section shall be passed by a Division Bench of the High Court.

25. Courts not to pass an order or execute a decree inconsistent with decision of a tribunal.—Except as provided in this Act, no court shall pass any order or grant any decree or execute wholly or partly, any order or decree, if the effect of such order, decree or execution would be inconsistent with any decision of a tribunal or any order passed on appeal therefrom under section 24.

26. Court fees—Notwithstanding anything contained in any Act to the contrary, the court fee payable on documents and petitions of the description shall be specified by the Central Government from time to time and shall be paid in such manner as may be prescribed.

PART IV

Control of Sikh Gurdwaras

27. Control of Sikh Gurdwaras.—(1) For the purposes of this Act, there shall be constituted Board and for every Notified Sikh Gurdwara, a committee of management, and there shall also be constituted from time to time, a judicial commission in the manner hereinafter provided.

(2) The management of every Notified Sikh Gurdwara shall be administered by the committee constituted therefor, the Board and the Judicial Commission in accordance with the provisions of this Act.

28. Government not to interfere with Gurdwaras except as provided in this Act.—Save as provided in this Act, it shall not be lawful for the Central Government or any State Government or for any executive officer of the said Central or State Government as the case may be in his official capacity, to undertake or assume the superintendence of any land or other property granted for the support of or otherwise belonging to, any Notified Sikh Gurdwara; to take any part in the management or appropriation of any endowment made for its maintenance or to nominate or appoint any office holder of, or to be concerned in any way with such Gurdwara.

29. Suits for relief claimable by application barred.—Notwithstanding anything contained in any Act to the contrary, no suit shall be instituted or continued in any court claiming any relief in respect of the management or administration of a Notified Sikh Gurdwara, if such relief might be or might have been claimed in an application made under the provisions of this Part or succeeding parts of this Act.

PART V

The Board

30. Board and its offices.—(1) The Board shall, by the name of "Shiromani Gurdwara Parbandhak Committee, Amritsar", be a body corporate and shall have a perpetual succession and a common seal and shall by such name sue and be sued.

(2) The Board through its Secretary shall have its Head Office at Amritsar and have one or more sub-offices at other places in India as the Board may from time to time decide :

Provided that all communications and notices to the Board shall be addressed to its office at Amritsar.

31. Composition and constitution of the Board.—(1) The Board shall consist of :—

(*i*) 100 elected members.

(*ii*) The head ministers of Sri Darbar Sahib, Amritsar, Sri Akal Takhat Sahib, Amritsar, Sri Takhat Kesgarh Sahib, Anandpur, Sri Takhat Patna Sahib and Sri Takhat Hazur Sahib, Nanded.

(*iii*) 10 members resident in India, co-opted by the members of the Board described in clauses (*i*) and (*ii*).

(2) The Central Government shall, as soon as may be, call a meeting of the members of the Board described in clauses (*i*) and (*ii*) for the purpose of co-opting the members described in clause (*iii*) and after the members have been co-opted, it shall notify the fact of the Board having been duly constituted and the date of the co-option shall be deemed to be the date of the constitution of the Board.

32. Constituencies for election of members of the Board.—The constituencies by which the elected members of the Board shall be returned, shall be specified by the

Central Government and each constituency shall return a single member :

Provided that the Central Government after consultation with the Board may from time to time alter the local limits of any constituency.

33. Qualifications of members of the Board—(1) A person shall not be qualified to be elected or co-opted as a member of the Board unless he is an elector for any constituency specified by the Central Government.

(2) A person shall be disqualified for being elected or co-opted to and for being a member of the Board if such person—

(*a*) has not attained the age of 35 years ;

(*b*) being a Keshadhari Sikh is not an Amritdhari ;

(*c*) is a *Patit* ;

(*d*) takes alcoholic drinks ;

(*e*) cannot read or recite Path of Sri Guru Granth Sahib ;

(*f*) holds any office of profit under the Government of India or under the Government of any State or under any corporation in which the Central or State Government has any share or financial interest ;

(*g*) is a minister other than those specified in clause (*ii*) of sub-section (1) of section 31 of any Notified Sikh Gurdwara or is a paid servant thereof or of the Board ;

(*h*) has been convicted of any offence involving moral turpitude unless a period of ten years has elapsed since his release ;

(*i*) has been dismissed from any office under Government of India, or the Government of any State or under Board or from any Notified Sikh Gurdwara for corruption or misbehaviour involving moral turpitude unless a period of ten years has elapsed since his dismissal ;

(*j*) is of unsound mind ;

(*k*) is an undischarged insolvent.

(3) If any person having been elected or co-opted member of the Board subsequently becomes or is found to be by the Board subject to any of the disqualifications enumerated in sub-section (2), he shall forthwith cease to be a member thereof.

34. Date of the Board Elections.—(1) Elections of members of the Board under the provisions of this Act shall be held on dates to be fixed by the Central Government.

(3) An electoral roll shall be prepared in such manner as may be prescribed for every constituency, on which shall be entered the names of all persons entitled to be registered as electors in that constituency.

35. Qualifications of electors.—(1) Every person shall be entitled to have his name registered on the electoral roll of a constituency constituted for the election of a member of the Board who—

(*i*) is a resident in that constituency ;

(*ii*) is a Sikh more than 25 years of age, who has had his name registered as a voter in such manner as may be prescribed :

Provided that no person shall be registered as an elector who—

(*a*) cannot read or write Gurmukhi ;

(*b*) trims or shaves his beard or *Keshas*, except in case of Sehajdhari Sikhs ;

(*c*) smokes ;

(*d*) takes alcoholic drinks ;

(*e*) cannot verbally recite Japji Sahib.

(2) Every person registered on the electoral roll for the time being in force for any constituency for the election

of a member of the Board shall be entitled while so registered to vote at an election of a member for that constituency provided that no person shall be entitled to vote at an election for more than one constituency.

36. Term of Membership of the Board.—(1) The member of the Board shall hold office for five years from the date of its constitution or until the constitution of a new Board, whichever is later.

(2) When a vacancy occurs in the Board owing to the death or resignation of a member or for any other reason, a new member shall be elected or co-opted as the case may be, in the manner in which the member whose seat is to be filled was elected or co-opted.

37. Meetings of the Board.—(1) The Board shall meet at least three times in each year.

(2) Meetings of the Board other than the first meeting shall be called by fourteen days' notice in writing served on every member of the Board in such manner as may be prescribed by bye-laws made by the Board but the first general meeting of the Board shall be held at a time not later than one month after the Central Government has notified that it has been constituted and notice thereof shall be given by notification in Official Gazette.

(3) An annual general meeting of the Board shall be held in every year in the month of March for purpose of adopting budget.

(4) The powers vested by this Act in the Board in General meeting shall not be exercised except by the Board at a meeting at which 25 or more members are present.

38. Decisions before the Board.—Except as otherwise provided by this Act, all questions or matters before the Board or its executive Committee shall be decided by a majority of the votes of the members present and in the case of an equality of votes, the Chairman shall have a second or casting vote.

39. Chairman at meeting of the Board.—The President shall be the Chairman at the meetings of the Board and of the executive Committee and in his absence the Vice-President shall be the Chairman.

40. Office bearers and the executive Committee of the Board.—(1) The Board shall at its first general meeting elect by a ballot one of its members to be President and another to be Vice-President to be known as office-bearers of the Board, and shall also at the same meeting in like manner elect seven of its members to be members of the executive Committee of the Board and the office-bearers and members so elected shall be the Executive Committee of the Board.

(2) The executive Committee of the Board shall exercise on behalf of the Board all powers conferred on the Board under the Act, which are not expressly reserved to be exercised by the Board in general meeting.

41. Vacancy in the Executive Committee.—(1) If a vacancy occurs in the executive committee, the remaining members of the executive committee, may, if the vacancy is that of an office-bearer, appoint one of themselves, or if the vacancy is that of any member other than an office-bearer, nominate any member of the Board temporarily to fill the vacancy until the next following general meeting of the Board, and the Board shall at such meeting elect a member of the Board to fill the vacancy.

(2) A member of the executive committee of the Board may resign the office by giving notice to the President, and an office-bearer may resign his office by giving notice to the executive committee, and such resignation shall have effect from the date on which the resignation was accepted by the President or executive committee, as the case may be.

42. Member of the Board not to be member of a committee.—If any member of the Board at any time

becomes a member of a committee of management, or an advisory committee, he shall forthwith cease to be a member of the Board.

43. Remuneration of office-bearers.—Any office-bearer of the Board may receive out of the fund of the Board such salary or other remuneration as may from time to time be fixed by the Board in gereral meetings.

44. Resignation of members.—A member of the Board may resign by giving notice to the President and an office-bearer may resign his office by giving notice to the Board and such resignation shall have effect from the date on which the resignation was accepted by the President or the Board as the case may be.

45. Staff of the Board.—(1) The Board shall from time to time appoint one chief Secretary, and shall further appoint one or more persons to be its secretary, who will be in-charge of different departments and may suspend, remove, dismiss or otherwise punish any official so appointed.

(2) Subject to the provisions of this Act, and the rules and byelaws made thereunder, the executive committee of the Board may appoint such other officers and the staff, as it may deem to be necessary for the due performance by itself of its duties and may from time to time determine the number, designation, grade and scales of salary or other remuneration of such servants and may at any time fine, reduce, suspend, remove, dismiss or otherwise punish any officer or servant so appointed.

PART VI

The Judicial Commission.

46. The Judicial Commission.—(1) The Judicial Commission shall consist of a single member who shall be an Amritdhari Sikh and the Central Government may from time to time appoint a commission or more commissions than one, if necessary.

(2) No person shall be appointed to be a member of the Commission unless he has been an advocate of any High Court for an aggregate period of not less than ten years.

(3) A member of the commission shall be selected by the Central Government out of the list of qualified persons prepared and maintained as described in section 47.

47. Board to submit a list of names.—(1) For the purpose of constitution of such Commission, every Board shall, within ninety days of its constitution, submit a list of the names of five persons nominated by the Board and the Central Government shall, after being satisfied that the persons so nominated are qualified as required by section 46, record the list.

(2) A person whose name is on the list described in sub-section (1) shall be entitled to have his name retained th reon for five years after his nomination has been recorded.

(3) If any person whose name is on the list dies or applies to the Board to have his name removed therefrom, the Board shall inform the Central Government and his name shall be removed from the list.

(4) The Central Government shall on request being made to it by the Board remove from the list, the name of any person whose name has been on the list for more than five years provided that the name of any person shall not be so removed while such member is a member of the Commission.

(5) When a name has been removed from the list, the Board shall nominate a qualified person for the purpose of filing the vacancy and the Central Government shall

after being satisfied that such person is qualified place his name on the list.

48. Member of the Board or of a committee to resign if appointed a member of the Commission.—If any person, who is a member of the Board or of a Committee is appointed to be a member of the Commission and accepts the appointment, he shall forthwith cease to be a member of the Board or Committee as the case may be.

49. Salary of the member and officers of the Commission.—(1) The member of the Commission, while he continues as such, shall receive such remuneration and travelling expenses as may be fixed from time to time by the Central Government in consultation with the Board and shall be deemed to be public servant, while he continues as such, within the meaning of section 21 of Indian Penal Code (45 of 1860).

(2) The Central Government may from time to time appoint such officers and staff as it may deem to be necessary for the performance of its duties by the Commission and the officers and servants so appointed shall whi e they continue as such be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

(3) The net expenses arising from the appointment of the Commission including the remuneration of its member, officer and the staff shall be defrayed by the Board.

(4) Any sum due to the Central Government under the provisions of sub-section (3) shall, if not recovered within a year after a demand has been made, be recoverable as if it were an arrear of land revenue.

50. Court office and jurisdiction of the Commission.—(1) The Commission shall have its Court and office at such place or places as may be fixed by the Central Government from time to time in consultation with the Board.

(2) The Commission shall for the purpose of deciding any matter which it is empowered to decide under th provisions of this Act, have the same powers as are vasted

in a court by the Code of Civil Procedure, 1908 (5 of 1908), and shall have jurisdiction unlimited as regards value, throughout India and shall have no jurisdiction over any proceedings other than is expressly vested in it by the Act.

(3) The proceedings of the Commission shall, so far as may be and subject to the provisions of this Act, be conducted in accordance with the provisions of the Code of Civil Procedure 1908 (5 of 1908), and save as otherwise provided by this Act, all orders of the Commission shall be final.

(4) Notwithstanding anything in any enactment to the contrary no document shall be inadmissible in evidence in any proceedings before the Commission on the ground that it is not duly stamped or registered.

51. Distribution of work if more Commissions than one are constituted.—(1) If more Commissions than one are constituted, the Central Government may by notification direct, which Commission may entertain applications relating to a particular gurdwara or gurdwaras situated in any specified State and may at any time transfer proceedings from one Commission to another as it may deem proper.

(2) The language of the Commission shall be such as the Commission may from time to time determine.

52. Execution of the orders of the Commission.—(1) A decree or order of the Commission shall be executed or otherwise given effect to by the District Court of the district in which the gurdwara in connection with which the decree or order was passed is situated, or by the District Court to which the Commission directs that any decree or order shall be sent for this purpose as if the decree or order had been a decree or order passed by such court.

(2) At the time of making a final order the Commission shall also make an order fixing the total amount of costs payable and specifying the persons or parties by and to whom costs shall be paid.

53. Removal of member of the Commission.—(1) If a vacancy occurs in the Commission it shall be filled by the appointment by the Central Government of some other qualified persons in the same manner as that in which the person whose seat is to be filled was appointed.

(2) The Central Govern nent may with consultation of the Board and shall on request being made to it for this purpose by the Board, remove, any member of the Commission if—

(*i*) he refuses to act or becomes incapable of acting or unfit or undesirable to act as a member, or

(*ii*) if it is satisfied after such enquiry as it may deem necessary that he has flagrantly abused his position as a member, or

(*iii*) if he has served as a member for more than 10 years.

(3) The Central Government may at any time, when there is no proceeding pending before the Commission dissolve the Commission.

54. Decision as to whether a person is or is not a *patit*.—If it is necessary to decide for the purposes of the constitution of the Board, or a Committee under the provisions of this Act, whether a person has or has not become *Patit*, the question shall on application being made thereunder for this purpose be decided by the Commission.

PART VII.

Committees of Gurdwaras.

55. Boards as Committee of management and advisory committees.—(1) The Board shall be the Committee of Management for the Gurdwaras known as:—

(*i*) Sri Akal Takhat Sahib, Sri Darbar Sahib, Baba Attal Sahib and all other Notified Sikh Gurdwaras within the municipal areas of both Amritsar and Taran Taran (Punjab).

(*ii*) Sri Takhat Keshgarh Sahib Anandpur (Punjab) and all other Notified Sikh Gurdwaras connected therewith.

(*iii*) The Notified Sikh Gurdwaras at Mukatsar (Punjab).

(*iv*) Gurdwara Dukh Niwaran Sahib Patiala, Gurdwara Fatehgarh Sahib Sarhand and all other Scheduled Gurdwaras within the boundaries of Patiala Division of Punjab State.

(*v*) Gurdwaras Sis Ganj Sahib, Gurdwara Rikab Ganj Sahib and all other Notified Sikh Gurdwaras within the boundaries of Delhi.

(*vi*) Sri Takhat Sahib Patna and all other Notified Sikh Gurdwaras within the boundaries of Bihar State.

(*vii*) Sri Takhat Hazoor Sahib Nanded (Bombay) and all other Notified Sikh Gurdwaras within the boundaries of Bombay State.

(*viii*) Gurdwara Bari Sikh Sangat Harrison Road, Calcutta and 11 other Notified Sikh Gurdwaras within the boundaries of Bengal and Assam States.

(*ix*) Gurdwara Pili Bhit Nainital, Gurdwara Sikh Sangat Varanasi and other Notified Sikh Gurdwaras situated within the areas of the Uttar Pradesh State.

(*x*) Gurdwaras other than those specified in (*i*) to (*ix*) in the Union territory.

(*xi*) All other notified Sikh Gurdwaras within the boundaries of Madhya Pradesh, Orissa, Madras, Kerala, Andhra Pradesh, Rajasthan and Kashmir.

(2) The Board shall prepare a scheme of administration and management of the Gurdwaras descri sub-section (1) and the property, endowments, f

incomes thereof. Thereafter, such schemes may be modified or amended from time to time by a resolution of the Board passed by a majority of two-thirds of the members present in the meeting :

Provided that any scheme so prepared shall provide that 10 per cent of the gross income of every gurdwara enumerated in sub-section (1) be earmarked for preaching, propagation and promotion of Sikh religion.

(3) For the purposes of advising the Board in the discharge of its functions as Committee of Management of the Gurdwaras specified in sub-secton (1), the Board shall constitute an Advisory Committee for each of the groups of Gurdwaras mentioned in clauses (*i*) to (*ix*) of that sub-section consisting of such number of persons not exceeding seven and not less than three as the Board may think fit, such persons being chosen from among the residents of the State in which the Gurdwaras are situated.

56. Committees of Gurdwaras other than those specified in section 55.—(1) For every Notified Sikh Gurdwara other than a gurdwara specified in section 55, a Committee shall be constituted after it has been declared to be a Sikh Gurdwara under the provisions of this Act provided that the Central Government may with consultation of the Board by notification direct that there shall be one Committee for any two or more such Gurdwaras specified in the notification.

(2) Any committee other than an advisory committee for which provision is made in section 55, shall consist of three to five members, who will all be nominated by the Board and who shall be all residents in the District or Taluqa in which the Gurdwara or one of the Gurdwaras to be managed by the Committee is situated.

(3) The Committee described in sub-sections (1) and (2) shall be constituted as soon as may be after the constitution of the Board and every committee shall continue for seven years from the date of its constitution or until a new committee has been constituted, whichever is later.

(4) As and when the members of the committee described above have been nominated, the Government of the State in which the Gurdwara or Gurdwaras are situated shall notify this fact stating that the committee has been duly constituted and the date of the publication of that notification shall be deemed to be the date of the constitution of the committee.

(5) Every committee shall be a body corporate by the name of Committee of. Management of the Gurdwara or Gurdwaras under its management and shall have perpetual succession and a common seal and shall by such name sue and be sued.

57. Qualification for being a member of a Committee.— A person shall not be nominated by the Board to be a member of a Committee if he—

(*i*) is a member of the Board of an advisory Committee, or

(*ii*) is less than 31 years of age, or

(*iii*) is a *Patit* or not a Sikh, or

(*iv*) is of unsound mind or an undischarged insolvent, or

(*v*) is a minister or a paid servant of a Notified Sikh Gurdwara, or

(*vi*) being a *Keshadhari* Sikh is not an *Amritdhari*, or

(*vii*) takes alcoholic drinks, or

(*viii*) cannot read or write Gurmukhi, or

(*ix*) is suffering from any of the disqualifications mentioned in clauses (*f*) to (*k*) of sub-section (2) of section 33.

58. Removal of members of a Committee.—(1) If any person having been nominated a member of the Committee becomes or is found to be by the Board subject to any of disabilities stated in section 57 he shall cease to be a member thereof.

(2) If any member of the Committee absents himself from three consecutive meetings of the Committee his name may be removed from membership by the Board provided if he applies to the Board within one month of the removal of his name to be restored to such membership, the Board may restore him to office, provided further that no member shall be restored more than three times to the same Committee.

(3) On occurrence of a vacancy in a committee, the Board shall appoint any other qualified person to fill the same.

59. Meetings of the Committee.—(1) Every Committee shall meet at least six times in each year.

(2) A meeting of the Committee shall be called by the President by seven days notice in writing provided that such notice may also be issued by a member authorised in writing by the president for this purpose.

(3) No business shall be transacted or any proceeding held by a committee except at a meeting at which three or more members are present.

60. President and chairman of Committee and the procedure thereof.— (1) Every Committee shall at its first meeting elect a member to be a President who shall hold office during the continuance of the Committee or until he resigns or ceases to be a member of the Committee.

(2) At meetings of the Committee the President shall be the Chairman and if he is absent the members present shall elect one of themselves to be Chairman for purpose of the meeting.

(3) All question which come before the Committee shall be decided by a majority of votes of the members present and in case of an equality of votes the Chairman shall have a casting vote.

(4) The minutes of the Committee shall be recorded in writing in a minute book and the record shall be signed by the Chairman of the meeting.

(5) A member or President of a Committee may resign his office by giving notice to the Board and such resignation shall take effect from the date of its acceptance by this Board.

(6) The Committee constituted under section 55 shall not be affected by any other provision of this Part.

PART VIII

Powers and Duties of the Board

61. Powers and duties of the Board generally.—The Board shall in addition to the powers conferred upon the Board by this Act be the controlling body of all the Notified Sikh Gurdwaras and it shall be the duty of the Board to ensure that every Committee deals with the property and income of the Gurdwaras or Gurdwara managed by it in accordance with the provisions of this Act, the rules framed thereunder and the direction and general superintendence over all the Committee shall also vest in the Board.

62 Control by Board over Executive Committee.—The Board, in general meeting may at any time, call upon its Executive Committee to report upon any matter within the jurisdiction of the Board and may require the Executive Committee or its office-bearers to take such action as lies under this Act within the powers of the Board.

63. Matters for consideration of Board.—The Board, at any meeting, may consider and discuss any matter with which it has power under this Act to deal and shall also be competent to discuss and deal with any matter which in its opinion vitally concerns the Sikh religion and its tenets.

64. Board to hold and administer trusts.—(1) It shall be Competent for the Board to hold and administer trust funds for religious, charitable, educational or industrial purposes, whether such funds are derived from allotments

duly made by a committee out of the surplus funds or income of a Gurdwara under its management or from donations or contributions or endowments made direct to the Board for such purposes.

(2) (*i*) Notwithstanding anything contained in any other law for the time being in force or in this Act or in any administrative scheme, rules or bye-laws framed under the Act, the Board shall be sole authority to receive, collect, realize and take possession from the Government Treasuries, Banks, Courts, Post Offices wheresoever situated or from Custodian, Evacuee Property, (Punjab) or any person, member or office-bearer of any local committee or Gurdwara Management Committee of any Notified Sikh Gurdwara (in the territory in Pakistan known as Punjab) in possession of or against whom any kind of property or sums or dues recoverable by or payable to any notified Sikh Gurdwara left in the territory now known as Pakistan are still outstanding.

(*ii*) The payment made to the Board in pursuance of clause (i) shall constitute a valid discharge of the liabilities of the person or persons aforesaid.

(*iii*) This sub-section shall have retrospective effect as from the 15th day of August, 1947.

(3) (*i*) Notwithstanding any other provision of this Act, any sum of money belonging to any Notified Sikh Gurdwara left in the territory now known as Pakistan and deposited with or received by the Board in pursuance of the provisions of sub-section (2) on behalf of such Gurdwara shall be spent by the Board in the first place for the discharge of obligations legally incurred in connection with such Gurdwara, for the payment of allowances or salaries of the dependents, officers and servants connected with it and for its maintenance and improvement.

(*ii*) When after providing for the purposes specified in clause (i), there remains or appears likely to remain any surplus sum, or any portion of the deposit is not required for such purposes, it may be used for such religious, charitable, educational or industrial purposes under the control and management of the Board or by appointment of special committees or trusts elected by a majority of three-fourths of the members of the Board in a general meeting, as the Board, in a general meeting, may determine.

65. Setting of schemes of administration.—(1) When at any time the committee or the Board is of opinion that for the proper administration of the property, endowments, funds and income of a Notified Sikh Gurdwara a scheme should be settled, the Board and the committee shall consult together and if they agree upon a scheme, the scheme shall be described in writing and the committee shall give effect thereto.

(2) If at such consultation the committee and the Board do not agree upon a scheme, the committee or the Board may apply to the Commission, and the Commission, after hearing such members of the committee and of the Board respectively, as may be deputed for this purpose by the committe and the Board respectively, and any such other persons as it may consider proper to hear, may itself settle such scheme as it considers just and proper and pass an order giving effect thereto.

(3) When at any time the committee and the Board, after consultation together, are of opinion that a scheme settled under the provisions of sub-section (1) or sub-section (2) should, in the interests of the proper administration of the property, endowments, funds and income of the gurdwara, be set aside or modified, and the committee and the Board are in agreement in respect of the matter, the decision of the Board and the committee shall be recorded and effect thereto given by the committee.

(4) If the committee or the Board is of opinion that in the interests of the proper administration of the property, endowments, funds or income of a Notified Sikh Gurdwara a scheme settled under the provisions of sub-section (1) or sub section (2) should be set aside or modified and the Board and the committee are not in agreement upon the matter, the committee or Board may apply to the Commission to have the scheme set aside or modified as desired, and the commission, after hearing such members of the committee and of the Board respectively as may be deputed for this purpose by the committee and the Board respectively and any such other persons as it may consider proper to hear, may itself set aside or settle such scheme as it considers just and proper and pass an order giving effect thereto.

66. Powers of the Board to make bye-laws.—(1) The Board may from time to time make bye-laws not inconsistent with the provisions of this Act and the rules made thereunder regulating its own procedure, functioning and the fees to be levied under section 77.

(2) All the bye-laws framed under sub-section (1) shall take effect from the date of their publication in the Official Gazette of the Board.

PART IX

Powers and Duties of the Committee

67. General powers of committees.—Subject to the provisions of the Act, a committee shall have full powers of control over the employees, office-holders, and dependents of, and all properties and income of whatever description belonging to the Gurdwara or Gurdwaras under its management and of enforcing the proper observance of all ceremonies and religious observances in connection with such Gurdwara or Gurdwaras and of taking all such measures as may be necessary to ensure the proper management of the Gurdwara or Gurdwaras and the efficient administration of the property, income and endowments thereof.

68. Ministers and staff of committees.— (1) The Committee may appoint such ministers and the staff as it may deem necessary for the due performance by itself of its duties and may at any time fine, reduce, suspend or dismiss any such minister or member of the staff:

Provided that when the dismissal of a hereditary office-holder or of a minister is ordered by a committee the order shall, except when it is based on facts or conclusions established at a judicial trial or when such office-holder or minister is absconding be preceded by a recorded enquiry and at such enquiry a definite charge in writing shal be framed in respect of each offence and explained to such office-holder or minister, the evidence in support of it and any evidence which he may adduce in his defence shall be recorded in his presence and his defence shall be taken down in writing and on each of the charges framed a finding shall be recorded.

(2) Any minister or hereditary office-holder who has been dismissed, may within thirty days of the date of the order of dismissal, appeal either to the Board or to the Commission as he may elect and the order of the Board or the Commission, as the case may be, shall be final.

(3) When no appeal is preferred against an order of the Committee dismissing a hereditary office-holder or a minister, such order shall be final.

(4) If in the opinion of the Board a hereditary office-holder or a minister of a Notified Sikh Gurdwara has rendered himself liable to dismissal, the Board may move the committee of such Gurdwara to dismiss him and if the committee does not within thirty days of being so moved, dismiss such office-holder or minister, the Board may apply to the Commission to order his removal and if the Commission finds that such office-holder or minister may be so dismissed, it may order his dismissal and such order shall be final.

(5) When an application has been made to the Commission, the Commission may suspend from office, pending its

decision, the person against whom the application has been made.

(6) When, the Board acting as a committee under the provisions of section 55, orders the dismissal of a hereditary office-holder or a minister, an appeal against such order shall be made within thirty days to the Commission, whose order shall be final and conclusive.

69. Alienation of immovable trust property.—No exchange, sale, mortgage or other alienation of immovable property belonging to a Notified Sikh Gurdwara shall be valid unless it is sanctioned by the Committee of the Gurdwara and by the Board, provided that the sanction of the Board shall not be necessary in the case of lease of any such property for a term which does not exceed the remaining term of the existing Committee by a period of more than one year.

70. Powers of Committees to make regulations.—A committee of a Notified Sikh Gurdwara may make regulations not inconsistent with the provisions of this Act or with any rules or bye-laws made thereunder to regulate its procedure:

Provided that without the previous sanction of the Board no regulation shall be made—

(*i*) authorising by name or office any person to receive or sign acknowledgements of the receipt of any money on behalf of the committee, or

(*ii*) prescribing the form in which accounts, returns and reports relating to the management of a gurdwara shall be maintained or submitted.

71. Offerings to be the property of Gurdwara and salaries of office-holders to be their property.—All offerings made at or in connection with a Notified Sikh Gurdwara shall be deemed to be the property of such Gurdwara while the salary and allowances of a minister or other office-holders thereof and any property acquired by him out of his salary and allowances shall be the property of such minister of office-holder.

PART X

Finances

72. Objects on which the funds of a gurdwara to be spent.—(1) Subject to the provisions of this Act, all properties and income of a Notified Sikh Gurdwara shall be used, in the first place, for the maintenance or improvement of the gurdwara; for the maintenance of religious worship and the performance and conduct of religious and charitable duties, ceremonies and observances connected therewith; of the propagation of Sikh religion; for the payment of allowances or salaries of dependents, officers and servants thereof; for the fulfilment of the objects of the endowments thereof; for the maintenance of the *langar*; for such religious, charitable or educational purposes as the committee may consider necessary in connection therewith or for the discharge of any obligations legally incurred.

(2) When after providing for the purposes specified in sub-section (1), there remains or appears likely to remain any surplus sum or any income not required for any such purposes, the committee may by resolution passed by not less than two-thirds of its members, propose to allocate a part or the whole of such surplus sum or income to a particular religious, educational or charitable purpose and may, if the Board in writing sanctions such proposal, act in accordance therewith:

Provided that any proposal, so sanctioned to devote to such purpose income accruing during a period of more than three years may at any time not sooner than three years after the proposal was sanctioned be rescinded or varied by a subsequent resolution of the committee passed in like manner.

(3) Notwithstanding anything contained in sub-section (2) when it appears to the Board that after providing for the purposes specified in sub-section (1) there remains or is likely to remain any surplus sum or income not required for any such purposes, and the committee is

not willing to devote such surplus sum or income to other purposes, the Board may apply to the Commission for an order allowing the Board to devote the whole or part or such surplus sum or income to a particular and specified religious educational or other charitable purpose.

(4) When application has been made in accordance with the provisions of sub-section (3), the Commission may after hearing the objections, if any, of the committee or of any person having interest in the gurdwara concerned, if it is satisfied that the application is reasonable, determine what portion if any of such surplus sum or income shall be retained as a reserve fund for the gurdwara concerned and direct the remainder of the surplus sum or income to be devoted to any such religious, educational and charitable purpose as it may deem proper and the Commission may from time to time, on the application of the Board or of the committee or of a person having interest in the gurdwara concerned, rescind or vary any order passed under the provisions of this sub-section.

(5) Nothing contained in sub section (2), (3) and (4) shall apply to the Board when acting as a Committee of Management under section 55 of this Act. In the case of such a committee when after providing for the purposes specified in sub-section (1) there remains or appears likely to remain any surplus sum or any income not required for such purposes, the committee may by a resolution passed by not less than two-thirds of the members present in the meeting, utilize or allocate a part or the whole of such surplus sum or income of any particular Gurdwara under its management to a particular religious, educational, charitable or industrial purpose :

Provided that the meeting is attended by not less than one half of the total members, constituting the committee: Provided further that an allocation so made to devote to such purpose income accruing during a period of more than three years may at any time not sooner than three years after the allocation was made be rescinded or varied by a subsequent resolution of the Committee passed in the like manner.

73. Annual contribution to the Board.—(1) Every committee shall pay annually to the Board for the purpose of meeting the lawful expenses of the Board a contribution in money out of the income of the gurdwara or gurdwaras under its management.

(2) The proportion which such contribution shall bear to the annual income of a gurdwara shall be fixed for each gurdwara by the Board:

Provided that it shall not exceed one-tenth of such income.

(3) The Board shall be competent to reduce the amount of contribution due to the Board from any committee or gurdwara in any year for special reasons and the Board shall have power to prescribe the limit or annual income of the gurdwara or gurdwaras which may be totally exempted from making the contribution payable to the Board under the provisions of this section.

74. Recovery of contribution.—(1) The contribution payable under the provisions of section 73, shall be paid by the committee of a gurdwara after such notice and in such manner as may be prescribed.

(2) If a committee fails after due notice to pay any sum payable by it under the provisions of sub-section (1) the Commission shall on application being made to it by the Board in this behalf call upon the committee to show cause why it should not be ordered to pay such sum, and may after hearing such member of the committee as may be deputed by the committee for this purpose pass an order directing the committee to pay the sum found payable either in a lumpsum or by instalments, as it deems fit.

75. General Board Fund.—(1) The Board shall establish and maintain a fund to be called the General Board Fund and there shall be placed to the credit thereof the following sums, namely:—

(*i*) all the annual contributions paid to the Board under the provisions of sections 73 and 74, and

(*ii*) all the fees for copies of accounts and of entries in registers and other gurudwara records levied by the Board under the provisions of sub-section (3) of section 77;

(2) No sums other than those specified in sub-section (1) shall be placed to the credit of the General Board Fund.

(3) The General Board Fund shall be applied solely to the payment of expenses awfully incurred by the Board in the exercise of its powers under the provisions of this Act, towards the discharge of obligations legally incurred and towards the maintenance, protection and support of such historical gurdwares which in the opinion of the Board cannot be maintained, protected or provided for otherwise:

Provided that if after paying such expenses and discharging such obligations and affording such protection any surplus sum remains, such surplus sum may be spent by the Board on any religious, charitable, educational or industrial purposes and on such non-political purposes as are connected with the general uplift and welfare of the Panth as the Board may deem fit.

(4) All the expenses arising from the administration of this Act or incurred under any provision of this Act, including the expenses relating to any Tribunal, Board or Commission, and remuneration of the members of all such Tribunal, Board or Commission and other expenses incidental thereto shall be met from the General Board Fund.

(5) Any expenses incurred by the Central Government or any State Government under any provision of this Act or for the administration of this Act shall be recoverable from the General Board Fund and any such sum due to the Central or any State Government shall, if not recovered within a year after a demand has been made, be recoverable as if it were an arrear of land revenue.

76. Trust Funds.—(1) Every sum made over to the Board under the provisions of this Act by a

committee of a Notified Sikh Gurdwara or otherwise received by the Board for a specified religious, charitable, industrial, or educational purpose shall be held by the Board as a trust and shall be devoted to the purpose specified.

(2) Every sum other than a sum specified in section 73 shall be paid to the credit of a fund to be called the General Trust Fund, out of which the Board in general meeting may from time to time make allotments for the discharge of any obligations legally incurred in connection therewith or for such religious, charitable, industrial or educational purposes as the Board may consider proper or for grants in aid for the maintenance, repairs or service of Notified Sikh Gurdwaras.

(3) The Board shall establish and maintain a separate fund in respect of each trust held in accordance with the provisions of sub-section (1) above, and may discharge out of each such fund any obligations legally incurred in connection therewith.

(4) Every sum received by the Board in connection with any fund shall be placed to the credit of the fund in such Bank or banks as the Board may direct and the Board may also invest any portion of its funds in one or more Government Securities or National Defence Certificates and the income or proceeds derived therefrom shall be credited to the fund from which the investment was made.

77. Board to maintain accounts of all trust funds and of General Board Fund.—(1) The Board shall maintain regular accounts showing receipts on account of and expenditure out of the General Board Fund and separate similar accounts for each fund established under the provisions of sub-section (1) of section 76 and for the General Trust Fund.

(2) Any person having interest in a Notified Sikh Gurdwara shall, on application being made to the Board, be furnished with a copy, certified to be correct by the president or other member of the executive committee authorised by the president on this behalf, of the whole or of any specified part of such account.

(3) The Board shall charge for copies of accounts furnished under the provisions of sub-section (1) such fees as are charged for copies of records under the control of Deputy Commissioners of district under the rules for the time being in force in Punjab.

78. Audit of accounts.—(1) The accounts described in section 77 shall be audited and examined once in every year by such auditor as may from time to time be appointed by the Central Government.

(2) For the purposes of any such audit and examination of accounts the auditor may, by a demand in writing, require from the Board or any member or servant of the Board the production before him of all books, deeds, vouchers and all other documents and papers which he deems necessary, and may require any person holding or accountable for any such books,deeds,vouchers,documents or papers to appear before him at any such audit and examination, and to answer all questions which may be put to him with respect to the same or to prepare and submit any further statement which such auditor may consider necessary.

(3) Within thirty days after the audit and examination have been completed, the auditor shall submit a report to the Board upon each account audited and examined, and shall forward copies of his reports to the Central Government and to the Commission.

(4) The report of the auditor shall among other matters specify all items of expenditure which in his opinion are illegal, irregular or improper, all cases of failure to recover money or property due to the Board, all instances of loss or wasteful expenditure of money or property due to negligence or misconduct and all instances in which any money or property has been devoted to any purposes not authorised by this Act.

(5) The expenses incurred in the audit and examination of the accounts of any fund maintained by the Board

in accordance with the provisions of this Act shall be paid out of that fund.

(6) If payment of the expenses referred to in sub-section (1) is not made within three months from the date of the submission of a report as described in sub-section (3), the Central Government may on application to it being made within six months from such date by the auditor, recover the amount due as if it were an arrear of land revenue.

79. Board to consider Auditor's report.—(1) The Board in general meeting next following the date of the receipt of the auditors report, shall consider such report and satisfy itself that no expenditure shown therein has been incurred otherwise than in accordance with the provisions of this Act and shall pass such orders as are in its opinion necessary and proper to rectify any illegal, unauthorised or improper expenditure and may also pass such further orders upon the report, as it may deem proper:

Provided that if the next general meeting falls, on a day earlier than two months after the receipt of the report, it may be considered in the general meeting next following.

(2) Within two months from the date of the consideration of the report under sub-section (1), the Board shall cause the report and abstracts of each account to be published in at least one English and one Gurmukhi newspaper printed and published in India.

(3) If the Board fails to cause the report to be published in accordance with sub-section (2) the commission may get it so published and the expenses incurred in this behalf shall be paid by the Board and shall be recoverable as if it were an arrear of land revenue.

80. Budget of the Board.—(1) The executive committee shall lay before the Board at a general meeting to be held each year in March an estimate of the income and expenditure for the ensuing financial year of the Board and of each separate fund administered by the Board.

(2) The Board shall in general meeting take into consideration every estimate laid before it by the executive committee, and it shall be in the discretion of the Board to pass or reject such estimate or to modify or alter it and to pass it as so modified or altered.

81. **Accounts to be maintained by Committees.**—(1) The committee of every Notified Sikh Gurdwara shall maintain a regular account showing all sums received on behalf of and all disbursements made out of the funds and income of the Gurdwara.

(2) Any person having interest in the Gurdwara shall on application to the Secretary of the Committee be furnished with a copy of the whole or any part of such account, or other records, and the committee shall for such copies charge such fees as are charged by the Board under sub-section (3) of section 77.

82. **Audit of Committees account.**—(1) Subject to the provisions of sub-section (5), every account described in section 81 shall be audited and examined once in every year by an auditor appointed by the Board.

(2) The accounts of the Board acting as Committee under the provisions of section 55 shall be audited by an auditor who may act as an auditor under the provisions of the Companies Act, 1956 (1 of 1956).

(3) The Board shall maintain a list of not less than five auditors nominated by the Board with the previous sanction of the Central Government for the purpose of the audit of the accounts of committees other than thos specified in sub-section (2) and no auditor, whose name is not on the list, shall be appointed to audit such account.

(4) If within six months of the constitution of the Board, the Board has failed to nominate auditors as required by sub-section (3), the Central Government may appoint such number of auditors as are necessary to complete the list.

(5) The Committee of any Notified Sikh Gurdwara whose gross annual monetary income does not exceed two thousand rupees, may, with the sanction of the Board cause the account of such Gurdwara to be audited less frequently than once in every year or may with like sanction dispense with the audit and examination of such account.

(6) For the purpose of any such audit and examination the auditor may, by a demand in writing, require from the Committee or any member or servant of the committee the production before him of all books, deeds, vouchers and all other documents and papers which he deems necessary, and may require any person holding or accountable for any such books, deeds, vouchers, documents, or papers to appear before him at any such audit and examination and to answer all questions which may be put to him with respect to the same or to prepare and submit any further statement which such auditor may consider necessary,

83. Report of Auditors.—(1) Within thirty days after the audit and examination has been completed the auditor shall report to the committee of the Gurdwara upon the accounts audited and examined and shall forward a copy of his report to the Board and in case of the accounts of the Board acting as committee under the provisions of section 55 shall forward a copy to the commission and the Central Government also.

(2) The report of the auditor shall, among other matters, specify all items of expenditure which, in his opinion are illegal, irregular or improper, all cases of failure to recover money or property due to the gurdwara, all instances of loss or wasteful expenditure of money or property due to negligence or misconduct and all instances in which any money or property has been devoted to any purpose not authorised by this Act.

(3) The auditors' report upon th account of Gurdwara shall be open to inspection by any Sikh :

Provided that reasonable notice of intention to inspect is given by such Sikh to the Committee.

(4) The expenses incurred in the audit and examination of the accounts of a gurdwara shall be paid out of the income of the gurdwara.

84. Budget of Committee.—(1) Every committee shall submit each year to the Board at such time as may be prescribed an estimate of the income and expenditure for the ensuing financial year of the gurdwara or gurdwaras under its management.

(2) The Board shall scrutinise every estimate submitted in accordance with the provisions of sub-section (1), and if it finds that the estimate provides for expenditure not authorised by this Act, the Board shall direct the committee to modify or alter the estimate within a reasonable time in such manner as the Board may deem necessary, and if the committee does not within the time stated comply with the direction, the Board shall apply to the Commission to pass an order calling upon the Committee to make such modification or alteration, and the Commission may, after making such enquiry as may in its opinion be necessary, pass any order that it considers just and proper.

(3) If the Board finds that an estimate submitted to it is not in accordance with the scheme of administration settled under the provisions of this Act for the gurdwara to which the estimate relates, the Board may direct the committee to modify or alter the estimate within a reasonable time in such manner as the Board may deem necessary, and if the committee does not within the time stated comply with the direction, the Board may apply to the Commission to pass an order calling upon the committee to make such modification or alteration and the Commission may, after making such enquiry as may in its opinion be necessary, pass any order that it considers just and proper.

(4) Nothing in this section shall apply to the committee constituted under the provisions of section 55.

PART XI

Miscellaneous

85. Right of interested persons to complain to Commission in respect of misfeasance and other abuse of powers.—(1) Notwithstanding anything contained in section 92 of the Code of Civil Procedure, 1908, (5 of 1908.) or in the Specific Relief Act, 1877 (1 of 1877.), any person having interest in a Notified Sikh Gurdwara may, without joining any of the other persons interested therein, make an application to the Commission, against the Board, the Executive Committee of the Board, or the Committee, or Advisory Committee or against any member or past member of the Board, of the Executive Committee, or of the Committee or of the Advisory Committee or against any office-holder or past office-holder of the Gurdwara or against any employee, past or present, of the Board of Gurdwara, in respect of any alleged malfeasance, misfeasance, breach of trust, neglect of duty, abuse of powers conferred by this Act or any alleged expenditure on a purpose not authorised by this Act and the Commission, if it finds any such malfeasance, misfeasance, breach of trust, neglect of duty, abuse of powers or expenditure proved, may, consistent with the provisions of this Act and of any other law or enactment in force for the time being, direct any specific act to be done or forborne for the purpose of the remedying the same and may award damages or costs against the person responsible for the same, and may order the removal of any office-holder or member of the Board, Executive Committee, or Committee or Advisory Committee responsible for the same and may also disqualify any member of the Board, Executive Committee, or Committee or Advisory Committee thus removed from such membership for a period not exceeding five years from the date of such removal.

(2) When an application has been made to the Commission under the provisions of sub-section (1), the Commission may suspend from membership or office, pending its decision, the person against whom the application has been made.

(3) The Board or the Committee may make a similar application to the Committee, which may, in like manner dispose of it.

(4) The Board, committee or any person aggrieved by an order passed by the Commission under the provisions of sub-section (1) or sub-section (3), may, within ninety days of the orders, appeal to the High Court of the State in which the gurdwara regarding the affairs of which such application has been made, is situate and the orders of the High Court on appeal shall be final and conclusive.

86. Notice of application to be given.—No application shall be made under the provisions of section 85 against the Board, its executive committee or committee until the expiry of two months after notice in writing has been delivered to the Board, its executive committee or to the committee as the case may be, stating the cause of action, the name, description and place of residence of the applicant and the relief which he claims, and the application shall contain a statement that such notice has been delivered.

87. Act of the Board or Committee not to be invalidated by irregularity.—No act of the Board, or its executive Committee or of a committee shall be held invalid in any judicial proceeding on the ground of any defect in the constitution of the Board, executive committee or committee, as the case may be, or on account of any irregularity in the procedure of the Board, executive committee or committee, as the case may be, unless the defect or irregularity has occasioned a failure of justice.

88. Power of Central Government to make rules.—(1) The Central Government may make rules not inconsistent with the Act to carry out all or any of the purposes of the Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Central Government may make rules for—

(*i*) the registration of electors ;

(*ii*) the nomination of candidates, the times of elections to be held under the provisions of this Act, the mode of recording and counting votes and the declaration of the results of such elections ;

(*iii*) the conduct of enquiries and the decision of disputes relating to elections;

(*iv*) the definition of the practices at elections held under the provision of this Act which are to be deemed to be corrupt ;

(*v*) the investigation of allegations of corrupt practices at such elections ;

(*vi*) making void the election of any person proved to have been guilty of a corrupt practice or to have connived at or abetted the commission of, a corrupt practice or whose agent has been so proved guilty, or the result of whose election has been materially affected by the breach of any law or rule for the time being in force ;

(*vii*) rendering incapable of office, either permanently or for a term of years, any person who may have been proved guilty as aforesaid of a corrupt practice or of conniving at or abetting the same ;

(*viii*) prescribing the authority by whom questions relating to the matters referred to in clause (*i*), (*ii*), (*iii*), (*v*), (*vi*) or (*vii*) shall be determined ;

(*ix*) the method by which the income of a gurdwara shall be calculated for the purpose of fixing the annual contribution described in section 73, and

(*x*) the authority to whom, and the manner in which petitions, applications and records of suits or proceedings which may or should under the provisions of this Act be presented, made or forwarded, as the case may be, to a tribunal or to the commission as the case may be, are to be presented, made or forwarded when a tribunal or the Commission has not been constituted or is not sitting.

89. **Enquiries into conduct of gurdwara elections.**—The Central Government may appoint any person or persons authorised by it to hold an enquiry into the conduct of or into allegations of corrupt practices or irregularities at an election held under the provisions of this Act with all or any of the powers conferred upon the Tribunals appointed to hold an enquiry into an election by the provisions of Chapter III of Part VI of the Representation of People Act, 1951 (43 of 1951) and may prescribe the procedure to be followed and provide for the execution of any order as to costs passed by such person or persons in such enquiry.

90. **Repeal of Punjab Act VIII of 1925.**—The Sikh Gurdwaras Act, 1925 is hereby repealed.

STATEMENT OF OBJECTS AND REASONS

The Sikh Gurdwaras, both historic and others, are situated and scattered in almost all States and parts of India and are held in great esteem and reverence by the entire Sikh Community. For lack of uniform legislation, they are managed and governed by different sets of rules and regulations mostly influenced by local customs and usages. There is no uniformity in the performance of Sikh rites and ceremonies in the Sikh Gurdwaras.

The Bill seeks to secure better administration of the Sikh Gurdwaras which may be duly notified by the Government by having more effective and efficient supervision and superintendence of the Board over the Committees of Management of Gurdwaras spread over various parts of India. The Bill also seeks to bring uniformity in the performance of all religious rites in all the Sikh Gurdwaras.

Hence this Bill.

NEW DELHI;
The 29th September, 1964.

A. S. SAIGAL.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 66 authorises the Board to make bye-laws consistent with this law as to the procedure, functioning and fees to be levied under clause 77.

Clause 70 authorises the Committee of Notified Sikh Gurdwara to make regulations consistent with this law as to the procedure of all proceedings.

Clause 88 of the Bill deals with the rule making power of the Central Government consistent with this law. The matters in respect of which rules may be made are set out in that clause.

The rule making powers sought to be conferred are of a normal character.

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PART IV

Section 1-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON

NOTIFICATION

(LAW DEPARTMENT)

No. LAW 113 *LCA* 65, *Bangalore, dated 4th February* 1966.

Ordered that the Displaced persons (Compensation and Rehabilitation) Amendment Bill, 1965 (Lok Sabha Bill No. 84 of 1965) which has been published in the *Gazette of India*, Extraordinary, Part II, Section 2, dated the 6th December 1965, be republished in the *Mysore Gazette*, for general information.

By Order and in the name of the Governor of Mysore.

H. K. ANANTHASUBBA RAO,
Under Secretary to Government,
Law Department.

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LOK SABHA

The following Bills were introduced in Lok Sabha on the 6th December, 1965 :—

BILL NO. 84 OF 1965

A Bill further to amend the Displaced Person (Compensation and Rehabilitation) Act, 1954.

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Displaced Persons (Compensation and Rehabilitation) Amendment Act, 1965.

2. *Insertion of new section* 8A.—In the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), after section 8, the following section shall be, and shall be deemed always to have been, inserted, namely:—

"8A. *Payment of compensation in cases of mortgaged properties.*—(1) Where any compensation is payable to any displaced person in lieu of property abandoned by him in West Pakistan which on the date of his migration from West Pakistan was subject to a mortgage in favour of a person who is not resident in India, the Settlement Commissioner shall, after giving a reasonable notice to the displaced person, determine the principal sum for which the property was so mortgaged and such portion of the principal sum so determined as bears the same proportion as the compensation payable to the displaced person bears to the value of the verified claim of the displaced person in respect of that mortgaged property shall be deductible from the compensation payable in respect of the mortgaged property :

Provided that where compensation has been paid to any displaced person without such deduction having been made, the displaced person shall pay to the Central Government the amount of such deduction within three months of the determination thereof or such longer period as may be prescribed :

Provided further that where compensation has been paid to any displaced person by sale or any other mode of transfer to him of any property from the compensation pool, the displaced person may, within the aforesaid period of three months or, as the case may be, within the aforesaid prescribed period,—

(*a*) either retain the property on his paying in cash the aforesaid amount, or

(*b*) surrender a portion of that property of a value equivalent to the amount of such deduction, such value being determined by the Settlement Commissioner in the prescribed manner.

(2) If any displaced person fails to pay any amount which is liable to be deducted from his compensation under sub-section (1), or fails to surrender the property of the value equivalent to such amount, such amount may be recovered in the same manner as an arrear of land revenue."

STATEMENT OF OBJECTS AND REASONS

Certain difficulties are being experienced in the administration of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 and the early completion of the compensation scheme is thus impeded. Some of the properties left by the displaced persons in West Pakistan were subject to mortgages with the nationals of West Pakistan and it was therefore considered that proportionate deductions should be made from the compensation due to them on that account. Accordingly with a view to recovering the amounts of such deductions executive directions were issued in this behalf by the Punjab Government. In a writ petition before the High Court of Punjab the issue of these directions was challenged. The High Court held that the departmental authorities had not been empowered by law to realise the amounts of such deductions. It is, therefore, necessary that a suitable provision should be made in the Act for effecting the recovery of a portion of the compensation already paid to the displaced persons in lieu of the mortgage amounts received by them. Option is being given to the displaced persons either to retain the property on their paying in cash the amount so deductible or to surrender the portion of the property of a value equivalent to the amount of such deduction and on failure of payment of such amount, it is proposed to recover the amount in the same manner as an arrear of land revenue.

The Bill seeks to achieve these objects.

NEW DELHI; MAHAVIR TYAGI.

The 25th November, 1965.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

Clause 2 of the Bill inserts a new section 8A in which it is provided that where compensation has been paid to a displaced person without any deduction having been made on account of the mortgage money received by him, such displaced person shall pay to the Central Government the amount of such deduction within three months of the determination thereof or such longer period as may be prescribed. There may be cases where it may be more appropriate to allow longer period for the discharge of the aforesaid liability.

The aforesaid new section gives option to a displaced person to surrender a portion of the property allotted to him of a value equivalent to the amount deductible under the section, such value being determined in the prescribed manner.

The delegation of the aforesaid power relates to matters of detail or procedure and is thus of a normal character.

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PART IV

Section 1-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON

GOVERNMENT OF MYSORE

LAW DEPARTMENT

NOTIFICATION.

No. Law 115 *LCA* 65, *Bangalore, dated 4th February* 1966.

Ordered that the Union Trust of India (Amendment) Bill 1965 (Lok Sabha Bill No. 92 of 1965) which has been published in the *Gazette of India*, Extraordinary, Part II, Section 2, dated the 10th December 1965 be republished in the *Mysore Gazette*, for general information.

By Order and in the name of the Governor of Mysore,

H. K. ANANTHASUBBA RAO,
Under Secretary to Government,
Law Department.

LOK SABHA

The following Bill was introduced in Lok Sabha on the 10th December, 1965 :—

BILL NO. 92 OF 1965

A Bill further to amend the Unit Trust of India Act, 1963.

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows :—

1. *Short title and commencement.*—This Act may be called the Unit Trust of India (Amendment) Act, 1965.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 2.*—In section 2 of the Unit Trust of India Act, 1963 (52 of 1963) (hereinafter referred to as the principal Act),—

(*i*) after clause (*c*), the following clause shall be inserted, namely :—

'(*cc*) "fist unit scheme" means the unit scheme made before the commencement of the Unit Trust of India (Amendment) Act, 1965;';

(*ii*) after clause (*j*), the following clause shall be inserted, namey :—

'(*jj*) "subsequent unit scheme" means any scheme made after the commencement of the Unit Trust of India (Amendment) Act, 1965;';

(*iii*) in clauses (*n*), (*o*), (*p*) and (*q*), for the words "the unit scheme", the words "a unit scheme" shall be substituted.

3. *Amendment of section 4.*—In section 4 of the principal Act, in sub-section (5), for the words "the contributing institutions" the following words, brackets, letters and figure shall be substituted, namely:—

"any contributing institution, and in making any such refund the Board shall not make any discrimination between the institutions referred to in clause (*c*) of sub-section (2) or between the institutions referred to in clause (*d*) of that sub-section".

4. *Amendment of section 19.*—In section 19 of the principal Act, in sub section (1),—

(*i*) after clause (*c*), the following clause shall be inserted, namely :—

"(*cc*) formulating in relation to any unit scheme—

(*i*) savings and life insurance plan or plans in association with or as the agent of, the Life Insurance Corporation of India, but not including the life insurance business ; or

(*ii*) any other plan or plans,

under which a person may acquire an interest in units;";

(*ii*) in clause (*d*), after the words "matters and things" the words "as may promote the sale of units or" shall be inserted.

5. *Amendment of section* 20.—In secton 20 of the principal Act, for sub-sections (2), (3) and (4), the following sub-sections shall be substituted, namely :—

"(2) The Trust may borrow money from the Reserve Bank—

(*i*) repayable on demand or on the expiry of a fixed period not exceeding ninety days from the date on which the money is so borrowed, against stocks funds and securities (other than immivable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India ;

(*ii*) repayable on demand or within a period of eighteen months from the date on which the money is so borrowed, against the security of the bonds which the Trust may issue with the approval of the Central Government ;

(*iii*) on such terms and conditions and against the security of such other property of the Trust as may be specified in this behalf by the Reserve Bank for the purposes of any scheme other than the first unit scheme :

Provided that any amount borrowed under this clause and outstanding at any one time shall not exceed—

(*a*) five crores of rupees in respect of each such scheme ; and

(*b*) ten crores of rupees in respect of all such schemes in the aggregate.

(3) The bonds issued by the Trust under sub-section (2) shall be guaranteed by the Central Government as to the repayment of principal and the payment of interest at such rate as may be fixed by the Central Government at the time the bonds are issued ".

6. *Insertion of new sections 20A and 20B.*— After section 20 of the principal Act, the following sections shall be inserted, namely :—

"20A. *Special contribution by Reserve Bank.*—The Reserve Bank may, from time to time, in its discretion pay to the Trust from out of the amount payable to the Reserve Bank under sub-section (1) of section 25A any sum to be utilised by the Trust solely for meeting the losses arising out of, or any additional amount required in connection with, any variation made by the Trust in the sale or re-purchase price of a unit.

20B. *Grants. donations. etcL, to Trust.*—The Trust may receive gifts, grants, donations or benefactions from Government or any other source and such gifts, grants, donations or benefactions shall be treated by the Board as capital or income of the first unit scheme or, as the case may be, of any subsequent unit scheme according to the purposes for which they are made and in the absence of any indication of such purposes, they shall be treated as capital or income of such unit scheme or schemes and to such extent as the Board thinks fit".

7. *Amendment of section* 21.—In section 21 of the principal Act,—

(*a*) in sub-section (1), for the words "shall make a unit scheme", the words "may make one or more unit schemes" shall be substituted;

(*b*) in sub-section (3), for the words "the scheme", the words "any scheme" shall be substituted;

(*c*) in sub-section (4), for the words "The scheme", the words "Every scheme" shall be substituted.

8. *Substitution of new Chapter for Chapter* V.—For Chapter V and sections 22 to 25 of the principal Act, the following Chapter and sections shall be substituted, namely :—

CHAPTER V

ALLOCATION AND DISTRIBUTION OF INCOME AND RESERVE FUNDS.

22. *Capital of the Trust.*—(1) The capital of the Trust in relation to the first unit scheme shall consist of—

(*i*) the initial capital,

(*ii*) the unit capital of the said scheme,

(*iii*) any reserves created for that scheme.

(*iv*) any amount borrowed for the purposes of that scheme,

(*v*) any amount received for the purposes of that scheme by way of gifts, grants, donations or benefactions from the Government or any other source and treated as the capital of that scheme under section 20B,

(*vi*) any other capital allocated to that scheme by the Board having regard to the nature of such capital and other relevant factors.

(2) The capital of the Trust in relation to any subsequent unit scheme shall consist of—

(*i*) the unit capital of that scheme,

(*ii*) any reserves created for that scheme,

(*iii*) any amount borrowed for the purposes of that scheme,

(*iv*) any amount received for the purposes of that scheme by way of gifts, grants, donations or benefactions from the Government or any other source and treated as the capital of that scheme under section 20B,

(*v*) any other capital allocated to that scheme by the Board having regard to the nature of such capital and other relevant factors.

(3) The capital in respect of a unit scheme shall be held separately from the capital in respect of any other unit scheme and such capital shall, subject to the provisions of this Chapter, be applied solely for the purposes of that unit scheme.

23. *Income of the Trust.*—The income of the Trust shall consist of—

(*i*) in relation to the first unit scheme,—

(*a*) the income arising out of the capital referred to in sub-section (1) of section 22,

(*b*) any gifts, grants donations, or benefactions treated as the income of that scheme under section 20B, and

(c) any other income allocated to that scheme by the Board having regard to the nature of the income and other relevant factors;

(ii) in relation to any subsequent unit scheme,—

(a) the income arising out of the capital referred to in sub-section (2) of section 22,

(b) any gifts, grants, donations or benefactions treated as the income of that scheme under section 20B, and

(c) any other income allocated to that scheme by the Board having regard to the nature of the income and other relevant factors.

24. *Allocation of income in respect of first unit scheme.*— The income of the Trust in any year arising out of the capital of the Trust relating to the first unit scheme shall be allocated to the initial capital and the unit capital thereof in the same proportion as the former bears to the latter at the end of that year.

25. *Allocation of interest and other expenses.*— (1) The interest payable for any year for any borrowings by he Trust and the total amount of other expenses incurred by the Trust for that year for the purposes of the first unit scheme shall be allocated and charged to the initial capital and the unit capital thereof in the same proportion as is referred to in section 24.

(2) Notwithstanding anything contained in sub-section (1), if in any year the amount of expenses, other than interest allocated to the unit capital relating to the first unit scheme, is more than five per cent of the income allocated in that year to that scheme only an amount equal to such five per cent shall be charged to that unit capital and the rest of the total amount of expenses other than interest shall be charged to the initial capital.

(3) The interest payable for any year for any borrowings by the Trust and the total amount of other expenses incurred by the Trust in that year for the purposes of any subsequent unit scheme shall be charged to the unit capital of such scheme in such manner and to such extent as the Board may, with the previous approval of the Reserve Bank, determine.

(4) For purposes of this section, where expenses are incurred in common by the Trust in relation to more than one unit scheme such expenses may be allocated to the different schemes to such extent and in such manner as the Board may, with the previous approval of the Reserve Bank, determine having regard to the nature and purposes of the expenses and other relevant factors.

25A. *Distribution of income.*—(1) The income allocated to the initial capital in any year reduced by the interest and the amount of other expenses charged for that year to the initial capital may be distributed in the prescribed manner among the contributing institutions in each case in proporton to their respective contribution.

(2) The income allocated in any year to the unit capital relating to the first unit scheme reduced by the interest and the amount of other expenses charged for that year to such unit capital may, but not less than ninety per cent of such income so reduced, shall, be distributed in respect of that year to the unit holders under that unit scheme.

(3) The income allocated in any year to the unit capital relating to each of the subsequent unit schemes reduced by the interest and the amount of other expense charged for that year to such unit capital may; having regard to the purposes of that scheme and other relevant factors,—

(*i*) be distributed in respect of that year to the unit holders under that scheme in such manner and at such percentage of the income so reduced as the Board may determine; or

(*ii*) be carried forward and re-invested or otherwise utilised for the benefit of the unit holders in accordance with the provisions of that scheme.

25B. *Reserve funds.*—(1) The Trust may establish one or more reserve funds by transferring such sums as it may deem fit out of the amount of the income of the Trust not distributed to the contributing institutions or unit holders under the provisions of this Chapter.

(2) Subject to the provisions of this Act, the amount in any reserve fund created specifically for the purposes of any unit scheme shall be applied or utilised only for the benefit of the unit

holders under that unit scheme and for such purposes and in such manner as the Board may determine.

25C. *Definition.*—In this Chapter, "year" means the period in respect of which the books and accounts of the Trust are balance and closed under sub-section (2) of section 26.

9. *Amendment of section* 27.—In section 27 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) The affairs of the Trust shall be audited by one or more auditors duly qualified to act as auditor under sub-section (1) of section 226 of the Companies Act, 1956 (1 of 1956) (hereinafter referred to as the auditor) who shall be appointed by the Trust with the previous approval of the Reserve Bank and shall receive such remuneration as the Trust may fix".

10. *Amendment of section* 32.—In section 32 of the principal Act, in sub-section (1),—

(*i*) after the words and figures "the Super Profits Tax Act, 1963,", where they occur for the first time, the words, brackets and figures "the Companies (Profits) Surtax Act, 1964," (7 of 1964) shall be inserted ;

(ii) for the words "or super profits tax" the words "super profits tax, surtax" shall be substituted ;

(*iii*) in clause (*a*), after the words "super profits tax", the words, "surtax" shall be inserted;

(*iv*) in clause (c),—

(*a*) after the words and figures "the Super Profits Tax Act, 1963,", the words, brackets and figures "or to surtax under the Companies (Profits) Surtax Act, 1964," (7 of 1964) shall be inserted ;

(*b*) after the words "for the purposes of super profits tax", the words "or surtax" shall be inserted.

11. *Amendment of Act* 2 *of* 1934.—In section 17 of the Reserve Bank of India Act, 1934, in clause (4*BBB*),—

(*i*) the word "or" occuring at the end of sub clause (*i*) shall be omitted ;

(*ii*) after sub-clause (*ii*), the following sub-clause shall be inserted, namely:—

"(*iii*) for the purpose of any scheme other than the first unit scheme under the Unit Trust of India Act, 1963, (52 of 1963) on such terms and conditions and against the security of such other property of the Unit Trust as may be specified in this behalf by the Bank;".

STATEMENT OF OBJECTS AND REASONS

The Unit Trust of India Act, 1963 provides at present for the sale of units by the Trust under a scheme, which was brought into force on July 1, 1964. Athough the response from the public has been encouraging, it is considered desirable that the Trust should be enabled at this stage to offer, in addition, facilities for the acquisition of units by various classes of investors, under other schemes catering to their special preferences or requirements. It is also proposed that the Unit Trust should be in a position to formulate plans for the accumulation of savings by intending investors, for subsequent investment in units.

2. The Bill seeks to amend the Unit Trust of India Act, 1963 for these and for certain other purposes. The notes on clauses explain in detail the various provisions of the Bill.

NEW DELHI; T. T. KRISHNAMACHARI.

The 4th December, 1965.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. F. 15/15—65-SB, dated the 6th December, 1965 from Shri T. T. Krishnamachari, Minister of Finance to the Secretary, Lok Sabha.]

The President having been informed of the subject matter of the proposed Unit Trust of India (Amendment) Bill, 1965, recommends the introduction of the Bill in the Lok Sabha under clause (1) of article 117 of the Constitution.

Notes on clauses

Clause 2 provides for definitions. The present unit scheme is proposed to be defined as the first unit scheme and the other schemes which may be prepared by the Trust will be referred to as the subsquent unit scheme.

Clause 3.—Provision has been made in section 4 of the Act for the initial capital to be refunded, in case this is considered necessary or possible, to all the institutions. The section as it is now drafted does not, however, enable the Trust to return the initial capital only to the financial corporations or other notified financial institutions, as distinguished from (a) the Reserve Bank (b) the Life Insurance Corporation and (c) the State Bank and its subsidiaries. It is proposed to empower the Unit Trust to return the initial capital separately, or only, to these financial corporations or notified financial institutions, or to the institutions mentioned in each of the other categories referred to above.

Clause 4 enable the Trust to formulate savings-*cum*-insurance or other savings plans.—The amounts accumulated under these plans will be invested in units under the various schemes, which may be formulated and announced by the Trust.

Clause 5 provides for the grant of loans to the Trust by the Reserve Bank of India against debentures and ordinary shares held by the Trust, notwithstanding the fact that these may not be trustee securities. It is considered desirable that the Trust should be enabled to borrow on the security of these investments, for the purposes of the subsequent unit schemes.

Clause 6 provides for the waiving by the Reserve Bank, in case this is considered necessary, of the amount due to it on account of the interest or dividend on its contribution to the initial capital. The amount, which is thus waived, will be utilised for subsidising any concession to the investors in determining the sale or repurchase price of units. Clause 6 also provides for the receipt of other donations or gifts by the Trust.

Clause 8 provides for the changes which will be necessary in the Chapter relating to the assets and income of the Trust and the distribution of the income. It is proposed that the income relating to each unit scheme should be segregated and accounted for separately. While the distribution of not less than 90 per cent of the income will continue to be necessary in the case of the first unit scheme, according to the provisions of the law, the amount to be distributed in respect of the subsequent unit schemes will be left to the discretion of the Trust, which is expected to take into consideration investors' preferences and expectations regarding the distribution or reinvestment of the income.

Clause 9 is self-explanatory.

Clause 10 provides for a minor change in consequence of the enactment of the Companies (Profits) Surtax Act, 1964.

S. L. SHAKDHER,
Secretary.

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PART IV

Section 1-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON

GOVERNMENT OF MYSORE.

NOTIFICATION

(LAW DEPARTMENT.)

No. LAW 110 *LCA* 65, *Bangalore, dated 4th February* 1966.

Ordered that the Merchant Shipping (Amendment) Bill, 1965 (Rajya Sabha Bill No. XVII of 1965) which has been published in the *Gazette of India*, Extraordinary, Part II, Section 2, dated the 9th December 1965, be republished in the *Mysore Gazette*, for general information.

By Order and in the name of the Government of Mysore,

H. K. ANANTHASUBBA RAO,

Under Secretary to Government,
Law Department.

RAJYA SABHA.

The following Bill was introduced in the Rajya Sabha on the 9th December, 1965 :—

BILL No. XVII OF 1965.

A Bill further to amend the Merchant Shipping Act, 1958.

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Merchant Shipping (Amendment) Act, 1965.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Amendment of Section* 3.—In section 3 of the Merchant Shipping Act, 1958 (44 of 1958) (hereinafter referred to as the principal Act),—

(*a*) clause (1) shall be re-numbered as clause (1) A and before the clause as so re-numbered, the following clause shall be inserted, namely :—

'(1) "cargo ship" means a ship which is not a passenger ship;';

(*b*) after clause (18), the following clause shall be inserted, namely :—

'(18*A*) "international voyage" means a voyage from or to a port or place in India to or from a port or place outside India;';

(*c*) after clause (22), the following clause shall be inserted, namely :—

'(22*A*) "nuclear ship" means a ship provided with a nuclear power plant;';

(*d*) in clause (37), for the figures and words "10th day of June, 1948", the figures and words "17th day of June, 1960" shall be substituted;

(*e*) for clause (38), the following clause shall be substituted, namely :—

'(38) "safety convention certificate" means,—

(i) a passenger ship safety certificate,

(ii) a qualified passenger ship safety certificate,

(iii) a cargo ship safety construction certificate,

(iv) a qualified cargo ship safety construction certificate,

(v) a cargo ship safety equipment certificate,

(vii) a cargo ship radio telegraphy certificate,

(vi) a qualified cargo ship safety equipment certificate,

(viii) a cargo ship safety radio telephony certificate,

(ix) an exemption certificate,

(x) a nuclear passenger ship safety certificate,

(xi) a nuclear cargo ship safety certificate,

issued under Part IX or, as the case may be, Part IXA.';

(*f*) after clause (48), the following clause shall be inserted, namely :—

'(48*A*) "tanker" means a cargo ship constructed or adapted for the carriage in bulk of liquid cargoes of an inflammable nature ;'.

3. *Amendment of section* 9.—In section 9 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely :—

"(1A) Without prejudice to the provisions of sub-section (1), the Central Government, in the case of cargo ships, may, by notification in the Official Gazette authorise any person or body of persons, on such terms and conditions as may be specified therein, to be surveyor or surveyors for the purposes of this Act.".

4. *Amendment of section* 241.—In section 241 of the principal Act, in sub-section (3),—

(*a*) for the words and figures "or a safety certificate granted under Part IX", the words, figures and letter "or a passenger ship safety certificate granted under Part IX or, as the case may be, a nuclear passenger ship safety certificate granted under Part IXA" shall be substituted ;

(*b*) for the words "accept the certificate of survey or safety certificate", the words "accept the certificate of survey or the passanger ship safety certificate or, as the case may be, the nuclear passenger ship safety certificate" shall be substituted.

5. *Amendment of section* 242.—In section 242 of the principal Act, in the proviso, for the words "a safety certificate", the words "a passenger ship safety certificate or a nuclear passenger ship safety certificate" shall be substituted.

6. *Amendment of section* 244.—In section 244 of the principal Act, in the proviso, for the words "a safety certificate", the words "a passenger ship safety certificate or a nuclear passenger ship safety certificate" shall be substituted.

7. *Amendment of section* 284.—In section 284 of the principal Act, for the words "passenger ships", wherever they occur, the words "passenger or cargo ships" shall be substituted.

8. *Amendment of section* 288.—In section 288 of the principal Act, in sub-section (2),—

(*a*) after clause (*h*), the following clause shall be inserted, namely :—

"(*hh*) the training of crew in launching and using life-rafts ;" ;

(*b*) in clauses (*i*) and (*j*), for the word "boats", the words "boats or rafts" shall be substituted.

9. *Amendment of section* 291.—In section 291 of the principal Act,—

(*a*) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) Every Indian passenger ship and every Indian cargo ship of three hundred tons gross tonnage or more, shall, in accordance with the rules made under section 296, be provided with a radio installation and shall maintain a radio telegraph service or a radio telephone service of the prescribed nature and shall be provided with such certificated operators as may be prescribed." ;

(*b*) in sub-section (2), for the words "any other ship of sixteen hundred tons gross or more shall be a radio telegraph installation ; and that required to be provided for a ship of less than sixteen hundred tons gross, other than a passenger ship,", the words "any cargo ship of sixteen hundred tons gross or more shall be a radio telegraph installation ; and that required to be provided for a cargo ship of less than sixteen hundred tons gross" shall be substituted ;

(*c*) after sub-section (2), the following sub-section shall be inserted, namely :—

"(3) The Central Government may, having regard to the length of the voyage or voyages on which a ship or a class of ships is engaged and the maximum distance such ship or class of ships will be from the shore during such voyage or voyages, exempt, by order in writing and subject to such conditions and restrictions as may be specified therein, any ship or class of ships from compliance with all or any of the obligations imposed by or under this section, if that

Government is satisfied that such compliance would be unreasonable or unnecessary :

Provided that an exemption from the obligation to provide with radio telegraph installation in respect of any passenger ship or in respect of any cargo ship of sixteen hundred tons gross tonnage or more shall be subject to the condition that she shall have on board a radio telephone installation :

Provided further that no exemption shall be granted under this section, if it will have an adverse effect on the general efficiency of the distress service for the safety of ships.".

10. *Amendment of section* 292.—Section 292 of the principal Act shall be re-numbered as sub-section (1) of that section and and after the sub-section as so re-numbered, the following sub-section shall be inserted, namely :—

"(2) The Central Government may, by order in writing and subject to such conditions and restrictions as may be specified therein, exempt any ship under five thousand tons gross tonnage from the obligation imposed by sub-section (1), if that Government is satisfied, having regard to the area or areas in which the ship is engaged on a voyage or voyages and the value of radio direction finder as a navigational instrument and as an aid to locating ships, aircraft or survival craft, that such compliance would be unreasonable or unnecessary.".

11. *Amendment of section* 294.—In section 294 of the principal Act, in sub-sections (1) and (3), the words "and watchers" shall be omitted.

12. *Amendment of section* 296.—In section 296 of the principal Act,—

(*a*) in sub-section (1), after the words "radio telephony", the words "or radio direction finders" shall be inserted ;

(*b*) in sub-section (2), after clause (*a*), the following clause shall be inserted, namely :—

"(*aa*) the nature of radio telegraph installation to be provided on motor life-boats and survival craft ;".

13. *Amendment of section* 297.—In section 297 of the principal Act, for the words " signalling lamp of the type approved ", the words " signalling lamp which shall not be solely dependent upon the srip's main source of electrical power and which shall be of the approved " shall be substituted.

14. *Amendment of section* 298.—In section 298 of the principal Act,—

(*a*) in sub-section (1), for the words " about the ship's stability as is necessary for the guidance of the master in loading and ballasting the ship ", the words " as is necessary to enable the master by rapid and simple processes to obtain accurate guidance as to the stability of the ship under varying conditions of service " shall be substituted;

(*b*) for sub-section (2), the following sub-sections shall be substituted, namely :—

" (2) The information shall be in such form as may be approved by the Central Government (which may approve the provision of the information in the form of a diagram or drawing only) and shall be suitably amended whenever any alterations are made to the ship so as to materially affect such information.

(2A) The information shall be based on the determination of the ship's stability by means of an inclining test of the ship and any amendment thereto shall be effected, if necessary, after re-inclining the ship.

Provided that the Central Government may, by a general or special order—

(*a*) in the case of any ship, allow the information or an amendment thereto to be based on a similar determination of the stability of a sister-ship ;

(*b*) in the case of a ship specially designed for the carriage of liquids or ore in bulk, or of any class of such ships, dispense with such tests if it is satisfied from the information available in respect of similar ships that the ship's proportions and arrangements are such as to ensure more than sufficient stability in all probable loading conditions;";

(*c*) in sub-section (3), after the words "any information", the brackets and words "(including any amendment thereto)" shall be inserted;

(*d*) in sub-section (4), after the word "information", the brackets and words "(including any amendment thereto)" shall be inserted.

15. *Amendment of Section* 299.—In Section 299 of the principal Act,—

(*a*) in sub-section (1),—

(i) after the words "radio telephony installation", the words "and radio direction finder" shall be inserted;

(ii) for the words "safety certificate", the words "passenger ship safety certificate" shall be substituted;

(*b*) in sub-section (2), for the words "qualified safety certificate", the words "qualified passenger ship safety certificate" shall be substituted.

16. *Insertion of new Sections* 299*A and* 299*B*.—In the principal Act, after Section 299, the following sections shall be inserted, namely :—

"299A. *Safety construction Certificates and construction certificates for cargo ships*.—(1) Where in respect of any Indian cargo ship of five hundred tons gross or more the Central Government is satisfied that the ship has been surveyed in the manner prescribed under Section 299B and that she complies with the construction rules made under Section 284, the Central Government may issue in respect of the ship—

(*a*) if the ship performs international voyages, a certificate in the prescribed form to be called a cargo ship safety construction certificate;

(*b*) in other cases, a certificate in the prescribed form, to be called a cargo ship construction certificate.

(2) Where in respect of any such ship as is referred to in sub-section (1) there is in force an exemption certificate granted under Section 302 of the Act and the Central Government is satisfied that the ship complies with all the requirements referred to in that sub-section other than those from which the

ship is exempt under that certificate, the Central Government may issue in respect of the ship a certificate in the prescribed form to be called a qualified cargo ship safety construction certificate or a qualified cargo ship construction certificate.

299B. *Power to make rules.*— (1) The Central Government may. subject to the condition of previous publication, make rules to regulate the making of surveys of cargo ships under this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the times and places at which, and the manner in which, surveys are to be made ;

(*b*) the requirements as to construction, machinery, equipment and marking of sub-division load-lines which are to be fulfilled by cargo ships generally or by any class of cargo ships in particular ;

(*c*) the duties of the surveyor making a survey ;

(*d*) the rates according to which the fees payable in respect of surveys are to be calculated in the case of all or any of the places or ports of survey ;

(*e*) the closing of, and keeping closed, the openings in ships' hulls and any water-tight bulk-heads ;

(*f*) the securing of, and keeping in place, and the inspection of, contrivances for closing any such openings as aforesaid ;

(*g*) the operation of mechanisms of contrivances for closing any such openings as aforesaid and the drills in connection with the operation thereof ; and

(*h*) the entries to be made in the official log book or other record to be kept of any of the matters aforesaid."

17. *Amendment of Section* 300.—In Section 300 of the principal Act,—

(*a*) in sub-section (1),—

(i) for the words " any Indian ship of five hundred tons gross or more, not being a passenger ship ", the

words " any Indian cargo ship of five hundred tons gross or more ", shall be substituted ;

(ii) the words " and radio telegraphy or radio telephony installation " shall be omitted ;

(iii) in clause (*a*), for the words " safety equipment certificate ", in words " cargo ship safety equipment certificate " shall be substituted ;

(iv) in clause (b), for the words " equipment certificate ", the words " cargo ship equipment certificate " shall be substituted ;

(*b*) in sub-section (2), after the word " qualified ", at both the places where it occurs, the words " cargo ship " shall be inserted.

18. *Amendment of Section* 301.—In Section 301 of the principal Act,—

(*a*) for the words " any Indian ship, not being a passengar ship ", the words " any Indian cargo ship " shall be substituted ;

(*b*) in clause (*a*), before the word " safety ", at both the places where it occurs, the words " cargo ship " shall be inserted ;

(*c*) in clause (*b*), before the word " radio " at both the places where it occurs, the words " cargo ship " shall be inserted.

19. *Amendment of section* 303.—In section 303 of the principal Act,—

(*a*) in sub-section (1), for the words " safety equipment certificate, a qualified safety equipment certificate, an equipment certificate and a qualified equipment certificate," the words " a cargo ship safety equipment certificate, a qualified cargo ship safety equipment certificate, a cargo ship equipment certificate and a qualified cargo ship equipment certificate " shall be substituted ;

(*b*) after sub-section (1), the following sub-sections shall be inserted, namely :—

" (1*A*) A cargo ship safety construction certificate, a qualified cargo ship safety construction certificate, a cargo ship construction certificate and a qualified cargo ship construction certificate shall be in force

for five years from the date of its issue or for such shorter period as may be specified in the certificate.

(1*B*) An exemption certificate issued under section 302 shall be in force for the period for which the certificate to which it relates remains in force or for such shorter period as may be specified in the exemption certificate." ;

(*c*) in sub-section (2), for the word, brackets and figure "sub-section (1)", the words, brackets, figures and letters "sub-sections (1), (1*A*) or (1*B*)" shall be substituted "

(*d*) for sub-section (3), the following sub-section shall be substituted, namely :—

"(3) The Central Government or any person authorised by it in this behalf may grant an extension of any certificate issued under this Part in respect of an Indian ship—

(*a*) where the ship is absent from India on the date when the certificate would, but for the extension, have expired, for such period not exceeding five months from the said date as may be sufficient to enable the ship to return to the port in India at which it is to be surveyed ;

(*b*) in any other case, for a period not exceeding one month from the said date :

Provided that any extension granted under clause (*a*) shall cease to be operative upon the ship's arrival at the port referred to in that clause :

Provided further that no extension shall be granted under clause (*b*) in respect of a certificate extended under clause (*a*).".

20. *Amendment of section* 304.—In section 304 of the principal Act, in sub-section (1), for the words "a safety certificate", the words "a passenger ship safety certificate" shall be substituted.

21. *Amendment of section* 306.—In section 306 of the principal Act,—

(*a*) in sub-section (1), for the word "registered", the words "registered or to be registered" shall be substituted ;

(*b*) in sub-section (2), for the words " in respect of an Indian ship ", the words " in respect of a ship registered or to be registered in India " shall be substituted.

22. *Amendment of section* 307.—In section 307 of the principal Act,—

(*a*) in sub-section (1), for the words " safety certificate " at both the places where they occur, the words " passenger ship safety certificate " shall be substituted;

(*b*) in sub-section (2),—

(i) for the words " Indian ship, of five hundred tons gross or more, not being a passenger ship,", the words " Indian cargo ship of five hundred tons gross or more " shall be substituted;

(ii) for clause (*b*), the following clause shall be substituted, namely :—

" (*b*) a cargo ship safety construction certificate issued under section 299A, a cargo ship safety equipment certificate issued under section 300 and a cargo ship safety radio telegraphy certificate or a cargo ship safety radio telegraphy certificate issued under section 301, or ";

(iii) in clause (*c*), for the words " qualified safety equipment certificate ", the words " qualified cargo ship safety equipment certificate " shall be substituted;

(*c*) after sub-section (2), the following sub-section shall be inserted, namely :—

" (2*A*) No sea-going Indian cargo ship, less than 500 tons gross but not less than 300 tons gross, shall proceed on a voyage from any port or place in India to any port or place outside India unless there is in force in respect of the ship a cargo ship safety radio telephony certificate issued under section 301." ;

(*d*) in sub-section (3),—

(i) for the words " Indian ship of five hundred tons gross or more, not being a passenger ship,", the words " Indian cargo ship of five hundred tons gross or more " shall be substituted;

(ii) in clause (*a*), for the words "an equipment certificate", the words "a cargo ship equipment certificate" shall be substituted;

(iii) in clause (*b*), for the words "qualified equipment certificate", the words "qualified cargo ship equipment certificate" shall be substituted;

(iv) in clause (*c*), before the word "radio", at both the places where it occurs, the words "cargo ship" shall be inserted.

23. *Amendment of section* 308.—In section 308 of the principal Act,—

(*a*) in sub-section (1), for the words "every ship other than an Indian ship being a passenger ship or being a ship of five hundred tons gross or more", the words "every ship, being a passenger ship or being a cargo ship of three hundred tons gross or more" shall be substituted;

(*b*) in sub-section (2), the words "other than an Indian ship" shall be omitted;

(*c*) after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Nothing in this section shall apply in respect of an Indian ship or a nuclear ship.".

24. *Amendment of section* 309.—In section 309 of the principal Act, after the word and figures "sections 299,", the figures and letter "299A," shall be inserted.

25. *Insertion of new section* 309*A*.—After section 309 of the principal Act, the following section shall be inserted, namely:—

"309*A*. *Alterations pending issue of a safety convention certificate*.—Where any survey of a ship for the purpose of issue under this Part of a safety convention certificate has been completed, then, notwithstanding anything contained in this Act, the owner, agent or master of the ship shall not, until such certificate has been issued, make, or cause to be made, any alteration in the structural arrangements, machinery, equipment and other matter covered by the survey without the prior written permission of the Central Government or a person appointed by that Government in this behalf.".

26. *Amendment of section* 331.—In section 331 of the principal Act,—

(*a*) for sub-section (2), the following sub-section shall be substituted, namely :—

"(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for the classification, packing, labelling and marking of such goods or any class of such goods, stowing of such goods (whether with or without other cargo) including plans for stowing, the fixing of the maximum quantity of any such class of goods which may be carried in different ships or classes of ships, and such other matters relating to dangerous goods as require to be provided for implementing the provisions of the Safety Convention." ;

(*b*) in the *Explanation*, for the words "but shall not include any fog or distress signals or like equipment required to be carried by the ship under this Act or the rules or regulations thereunder ", the following shall be substituted, namely :—

" but shall not include,—

(*a*) any fog or distress signals or other stores or equipment required to be carried by the ship under this Act or the rules or regulations thereunder ;

(*b*) particular cargoes carried in ships specially built or converted as a whole for that purpose, such as tankers.".

27. *Insertion of new section* 331*A*.—After section 331 of the principal Act, the following section shall be inserted, namely :—

"331*A*. *Grain-loading plan*.—(1) No grain shall be loaded on board any Indian ship anywhere unless there is in force in respect of such ship a grain loading plan approved under sub-section (3) or sub-section (4).

(2) The grain-loading plan shall be in such form and contain such particulars as to the stability of the ship, circumstances of loading on departure and arrival, the main characteristics of the fittings used to prevent the shifting of cargo and such other

matters as may be prescribed, having regard to the rules made under sub-section (5) of section 332.

(3) Save as otherwise provided under sub-section (5), the grain-loading plan shall be submitted to the Central Government for approval and that Government may, having regard to the rules made under sub-section (5) of section 332, the stability of the ship and the circumstances of loading on departure and arrival, approve the plan with such modifications, if any, as it may deem necessary.

(4) The Central Government may request the Government of a country to which the Safety Convention applies to approve the grain-loading plan of an Indian ship and an approval given in pursuance of such a request and containing a statement that it has been so given shall have effect for the purposes of this section as if the approval had been given by the Central Government.

(5) The Central Government may, at the request of the Government of a country to which the Safety Convention applies, approve the grain-loading plan of a ship registered in that country if the Central Government is satisfied, in the like manner as in the case of an Indian ship, that such approval can properly be given and where approval is given at such a request, it shall contain a statement that it has been so given.

(6) It is hereby declared that for the purpose of section 208 (which requires documents relating to navigation to be delivered by the master of a ship to his successor) the plan shall be deemed to be a document relating to the navigation of the ship.".

28. *Amendment of section* 332.—In section 332 of the principal Act,

(*a*) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) Where grain is loaded on board an Indian ship in accordance with a grain-loading plan approved under section 331A or where grain is loaded on board any other ship in accordance with a grain-loading

plan approved by or on behalf of the Government of the country in which that ship is registered, the ship shall be deemed, for the purposes of sub-sections (1) and (2), to have been loaded with all necessary and reasonable precautions." ;

(*b*) in sub-section (3),—

(i) in clause (*a*), the word " and " where it occurs last, shall be omitted ;

(ii) for clause (*b*), the following clauses shall be substituted, namely :—

"(*b*) the kind of grain carried and quantity thereof stated in cubic feet, quarters bushels or tons weight ; and

(*c*) the mode in which the grain is stowed and the precautions taken to prevent the grain from shifting and where the grain has been stowed in accordance with the ship's grain-loading plan, if any, that it has been so stowed." ;

(*c*) for sub-section (4), the following sub-section shall be substituted, namely :—

"(4) Any person authorised in this behalf, by general or special order of the Central Government may, for securing the observance of the provisions of this section, go on board a ship carrying a cargo of grain and require the production of the grain-loading plan of the ship and inspect the mode in which the cargo is stowed in the ship." ;

(*d*) in sub-section (5), for the words " make rules in relation to the loading of ships ", the words " make rules in relation to grain-loading plans and the loading of ships " shall be substituted ;

(*e*) in sub-section (6), for the words " this section ", the words, figures and letter " section 331A and this section " shall be substituted.

29. *Amendment of section* 343.—In section 343 of the principal Act, in sub-section (1), for the words " any ship of less than five hundred tons gross other than a passenger ship ", the words " any cargo ship of less than three hundred tons gross " shall be substituted.

30. *Insertion of new Part* IXA.—After Part IX of the principal Act, the following Part shall be inserted, namely :—

"PART IXA

NUCLEAR SHIPS

344A. *Application of Act to nuclear ships.*—(1) This Part applies only to nuclear ships.

(2) Notwithstanding anything contained in this Act, a nuclear ship shall not be required to obtain or produce any certificate referred to in sub-clauses (i) to (ix) of clause 38 of section 3 or, as the case may be, any like valid safety convention certificate.

(3) The Central Government may, by notification in the Official Gazette, direct that any of the provisions of this Act (other than the provisions of this Part and the provisions of section 456) specified in the notification—

(*a*) shall not apply to nuclear ships ; or

(*b*) shall apply to nuclear ships, only with such exceptions, modifications and adaptations as may be specified in the notification.

(4) A copy of every notification proposed to be issued under sub-section (3) shall be laid in draft before both Houses of Parliament for a period of not less than thirty days while they are in session and it shall not be issued until it has been approved, whether with or without modification, by each House of Parliament.

344B. *Nuclear passenger ship safety certificates and nuclear cargo ship safety certificates.*—(1) If in respect of any Indian nuclear passenger or cargo ship the Central Government is satisfied that the ship has been surveyed in accordance with this Act and has been inspected by a person appointed in this behalf by the Central Government and has complied with such special requirements, if any, as that person has, after such inspection, specified, the Central Government may issue—

(*a*) in the case of a passenger ship, a nuclear passenger ship safety certificate ;

(*b*) in the case of a cargo ship, a nuclear cargo ship safety certificate.

(2) A certificate issued under sub-section (1) shall be in force for a period of twelve months from the date of issue or for such shorter period as may be specified in the certificate.

344C. *Prohibition of proceeding to sea without certificates.*— (1) No Indian nuclear ship shall proceed on a voyage from any port or place in India to any port or place outside India unless there is in force in respect of the ship—

(*a*) a nuclear passenger ship safety certificate, if she is a passenger ship;

(*b*) a nuclear cargo ship safety certificate, if she is a cargo ship.

(2) The master of a ship to which this section applies shall produce to the customs collector from whom a port clearance for the ship is demanded the certificate required by sub-section (1) when the ship proceeds to sea and the port clearance shall not be granted and the ship may be detained until the said certificate is so produced.

344-D. *Safety assessment and operating manual.*— (1) Every Indian nuclear ship shall have on board a safety assessment and an operating manual in such form and containing such particulars and approved by such authority as may be prescribed.

(2) The safety assessment and the operating manual shall be prepared, maintained and kept up-to date in such manner as may be prescribed.

344-E. *Foreign nuclear ships to give advance notice of arrival.*—(1) No nuclear ship, other than an Indian ship, shall enter the territorial waters of India unless the master, owner or agent thereof has given such advance notice of the ship's intended arrival in India as may be prescribed, to such authority as may be specified by the Central Government, and has forwarded along with the notice a true copy of the ship's safety assessment to that authority.

(2) If on the examination and evaluation of the ship's safety assessment the authority referred to in sub-section (1) is of opinion that the entry of the ship will involve unreasonable radiation or other hazards to the crew, passengers, members of

the public, waterways, food or water resources, he may direct the nuclear ship not to enter the territorial waters of India and the ship shall comply with such direction.

344-*F*. *Control on arrival of nuclear ships*.—(1) The master of every nuclear ship shall, on arrival at a port in India, give notice of the ship's arrival in the prescribed form to such authority as the Central Government may specify in this behalf.

(2) Any person authorised in this behalf (hereinafter referred to as the authorised person), by general or special order of the Central Government, may go on board such ship for the purpose of verifying that he has on board a valid nuclear passenger ship safety certificate or, as the case may be, nuclear cargo ship safety certificate and for the purpose of satisfying himself after examining the safety assessment and operating manual and such other things as he deems fit that there are no unreasonable radiation or other hazards to the crew, passengers, members of the public, waterways, food or water resources.

(3) If the authorised person is satisfied after such examination that there are no unreasonable radiation or other hazards to the crew, passengers, members of the public, waterways, food or water resources, he may issue a certificate to that effect.

344-G. *Notice of accidents to nuclear ships*.—(1) Where an Indian nuclear ship meets with an accident and such accident is likely to lead to environmental hazards, the master of the ship shall forthwith give notice of the accident—

(*a*) to such officer or authority as may be specified in this behalf by the Central Government ; and

(*b*) if the ship is in or intends to enter the territorial waters of a foreign State, also to the appropriate Governmental authority of the State.

(2) Where a nuclear ship other than an Indian ship meets with an accident of the nature specified in sub-section (1) while she is in the territorial waters of, or at a port in India, the master of the ship shall forthwith give notice of the accident to the officer or authority specified under clause (*a*) of sub-section (1).

(3) On receipt of a notice under sub-section (1) or sub-section (2), the officer or authority specified under clause (*a*)

of sub-section (1) shall issue such directions as he thinks necessary and expedient in the circumstances of the case and investigate into the causes of the accident in such manner as may be prescribed.

(4) A copy of the directions issued under sub-section (3) and a report of the findings of the investigation shall be sent to the Central Government within such time as may be prescribed.

(5) Where a nuclear ship other than an Indian ship meets with an accident of the nature specified in sub-section (1) at any port or place outside India and intends to enter the territorial waters of India in a damaged condition, the master of such ship shall give notice of the nature of the accident and the condition of the ship in such form as may be prescribed to the officer or authority specified under clause (*a*) of sub-section (1) and shall comply with such directions as that officer or authority may give.

(6) The provisions of this section are in addition to and not in derogation of the provisons of Part XII of this Act.

344-H. *Application of certain sections to or in relation to certain certificates under Section 344-B.*—(1) The provisions of Sections 228 to 231 (inclusive) shall, so far as may be, apply to and in relation to every certificate issued by the Central Government under Section 344-B in the same manner as they apply to and in relation to a certificate of survey.

(2) The provisions of Section 309-A shall apply to and in relation to a nuclear ship surveyed for the purpose of issue of a certificate under Section 244-B as they apply to and in relation to a ship surveyed for the purpose of issue of a safety convention certificate under Part IX.

344-I. *Power to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Part.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

"(*a*) the design, construction and standards of inspection and assembly of the reactor installations of nuclear ships ;

(*b*) the standards of safety of nuclear ships ;

(*c*) the manner of survey of nuclear ships ;

(*d*) the forms in which certificates under this Part may be issued ;

(*e*) the form and manner in which the safety assessment and operating manual of a nuclear ship are to be prepared, maintained and kept up-to-date and the particulars to be contained therein ;

(*f*) the form of notices under this Part and the time when such notices should be given ;

(*g*) the manner in which investigations may be made into causes of accidents to a nuclear ship ;

(*h*) the special precautions to be taken against unreasonable radiation or other nuclear hazards to the crew, passengers and other persons, to waterways and to food and water resources ;

(*i*) the manner in which radio-active waste from nuclear ships is to be stowed and disposed of ;

(*j*) the manner in which the reactor fuelling, defuelling and refuelling and maintenance of nuclear ships are to be carried out ;

(*k*) the special training for and qualifications of, masters and seamen of nuclear ships ;

(*l*) the special requirements relating to approach, entry into, stay in or departure from, an Indian port of a nuclear ship ;

(*m*) the procedure to be followed for determining the operational conditions of a nuclear ship ;

(*n*) the protection and closure of the reactor installation of nuclear ships in the case of a collision, grounding, fire, leakage of radio-active material or other accident ;

(*o*) the fees to be charged for any inspection survey or certificate under this Part ;

(*p*) any other matter which has to be or may be prescribed.".

31. *Amendment of Section* 354.—In Section 354 of the principal Act, after the words " direct danger to navigation ",

the words "or on encountering sub-freezing air temperatures associated with gale-force winds, causing severe ice accretions on superstructures or strong gales for which no storm warning has been received by him" shall be inserted.

32. *Insertion of new Section* 354-A.—After Section 354 of the principal Act, the following Section shall be inserted, namely :—

"354-A. *Communication of intelligence regarding dangers to navigation.*—(1) Where an authority prescribed under Section 354 receives intelligence from any source of any danger to navigation mentioned in that section, that authority shall, as soon as possible, communicate such intelligence to such ships and authorities as he may deem proper.

(2) The intelligence shall be communicated in such manner and subject to such terms and conditions as may be prescribed :

Provided that no fees shall be levied for communicating any intelligence under this section to a ship.".

33. *Insertion of new Section* 355-A.—After Section 355 of the principal Act, the following section shall be inserted, namely :—

"355-A. *Obligation to render assistance to persons in danger.*—(1) The master of every Indian ship shall render assistance to every person found at sea in danger of being lost, unless he is unable or, in the special circumstances of the case, considers that such assistance cannot be rendered without serious danger to his ship, or the persons thereon.

(2) If the master of an Indian ship is unable or considers it unreasonable to go to the assistance of a person found at sea in danger of being lost, the master shall forthwith cause a statement to be entered in the official log book or, if there is no official log book, cause other record to be kept of his reasons for not going to the assistance of that person.".

34. *Amendment of Section* 356.—In Section 356 of the principal Act,—

(*a*) after clause (*a*), the following clause shall be inserted, namely :—

"(*aa*) the manner of communicating intelligence regarding dangers to navigation, the terms and conditions

subject to which such intelligence may be communicated and the fees which may be levied for the communication of intelligence;";

(*b*) in clause (*b*), for the words "signals of distress and of urgency", the words "signals of distress, urgency and of safety" shall be substituted ;

(*c*) in clause (*d*), for the words "radio telegraphy", the words "radio telegraphy or telephony" shall be substituted.

35. *Amendment of Section* 436.—In Section 436 of the principal Act, in sub-section (2), in the table,—

(*a*) in item 97,—

(i) in the second column, the words, brackets and figure "sub-section (1) of" shall be omitted ;

(ii) in the third column, the brackets and figure "(1)" shall be omitted ;

(*b*) after item 98 the following item shall be inserted, namely :—

Serial No.	Offences	Section of this Act to which offence has reference	Penalties
"98A	If the owner, agent or master fails to comply with section 309A.	309A	Fine which may extend to five hundred rupees.";

(*c*) after item 105, the following item shall be inserted, namely :—

Serial No.	Offences	Section of this Act to which offence has reference	Penalties
"105A	If the owner, agent or master fails to comply with sub-section (I) of section 331A.	331A	Fine which may extend to one thousand rupees.";

(*d*) after item 108, the following items shall be inserted, namely :—

Serial No.	Offences	Section of this Act to which offence has reference	Penalties
"108A	If an Indian nuclear ship proceeds or attempts to proceed to sea in contravention of sub-section (1) of section 344C.	344C	The master or owner shall be liable to fine which may extend to ten thousand rupees.
108B	If an Indian nuclear ship fails to comply with sub-section (1) of section 344D.		The master or owner or agent shall be liable to imprisonment which may extend to six months or fine which may extend to ten thousand rupees or both.
108C	If a nuclear ship other than an Indian ship enters the territorial waters of India in contravention of section 344E.	344E	The master shall be liable to fine which may extend to ten thousand rupees.
108D	If the master of a nuclear ship fails to give the notice required by sub-section (1) of section 344F.		Fine which may extend to ten thousand rupees.
108E	(*a*) If the master of a nulcear ship fails to give the notice required by sub section (1) or sub-section (2) or sub-section (5) of section 344G ;	344G(1), (2) and (5)	Imprisonment which may extend to one year or fine which may extend to ten thousand rupees or both ;
	(*b*) If the master of a nuclear ship fails to comply with any directions issued under sub-section (3) or sub-section (5) of section 344G.	344G (3) and (5)	Imprisonment which may extend to one year or fine which may extend to ten thousand rupees or both.";

(*e*) after item 115, the following item shall be inserted, namely :—

Serial No.	Offences	Section of this Act to which offence has reference.	Penalties
"115A	If a master fails to comply with section 355A.	355A	Imprisonment which may extend to six months or fine which may extend to one thousand rupees or both.".

36. *Insertion of new Section* 454-A.—After Section 454 of the principal Act, the following Section shall be inserted, namely :—

"454-A.—*Power to prescribe alternative fittings, etc.*— Where this Act requires that a particular fitting, material, appliance or apparatus or any type thereof shall be fitted or provided for in a ship or that any particular provision shall be made in a ship, the Central Government after satisfying itself by trials or otherwise that any other fitting, material, appliance or apparatus or type thereof or provision is as effective as that so required, may permit, by general or special order, such other fitting, material appliance or apparatus or type thereof or provision to be used or provided.".

37. *Amendment of Section* 456.—In Section 456 of the principal Act, to sub-section (1), the following proviso shall be added, namely :—

" Provided that no exemption which is prohibited by the Safety Convention shall be granted under this sub-section.".

38. *Amendment of Section* 458.—In Section 458 of the principal Act,—

(*a*) in sub-section (2), in clause (*a*), for the word and figures " Section 331 ", the words, figures and letter " Section 331 or Section 344-I " shall be substituted ;

(b) for sub-section (3), the following sub-section shall be substituted, namely :—

" (3) Every rule or regulation made under this Act shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or the regulation, or both Houses agree that the rule or regulation should not be made, the rule or regulation shall, thereafter, have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such

modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.".

39. *Insertion of new Section* 460-*A*.—In Part XVII of the principal Act, after Section 460, the following section shall be inserted, namely :—

"460*A*. *Removal of difficulties.*—If any difficulty arises in giving effect to the provisions of this Act, in so far as they relate to the Safety Convention, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the purposes of this Act, as appear to it to be necessary or expedient for removing the difficulty.".

STATEMENT OF OBJECTS AND REASONS

The minimum standards laid down in the Merchant Shipping Act, 1958, which merchant ships should comply with in the interests of safety of life and property at sea are based on the International Convention for the Safety of Life at Sea, 1948. The Fourth International Conference on Safety of Life at Sea which met in London in May-June, 1960 under the aegis of the Inter-Governmental Maritime Consultative Organisation, one of the specialised agencies of the United Nations, reviewed the 1948 Convention in the light of the experience of various countries during the intervening twelve years and decided to replace it by a new Convention, namely, the International Convention for the Safety of Life at Sea, 1960. The new Convention was adopted on the 17th June, 1960 and was, subject to acceptance, signed, among others, by the representatives of the Government of India. As a prelude to depositing our acceptance, of the 1960 Convention, it is necessary to amend the Merchant Shipping Act, 1958 suitably. As the Merchant Shipping Act, already embodies the requirements of the 1948 Convention, it is necessary to amend that Act only to the extent that the 1960 Convention has deviated from the 1948 Convention.

2. Some of the more important requirements of the 1960 Convention which involve deviation from the provisions of the 1948 Convention and which therefore call for amendment of the Merchant Shipping Act, 1958 are summarised below :—

(1) *Survey of cargo ships and issue of safety certificates to cargo ships.*—Under the 1960 Convention, the scope of survey of cargo ships has been extended to cover the survey of hull, machinery and other equipment of cargo ships. Further, all cargo ships of over 500 tons gross will be required to carry in addition to the existing certificates a safety construction certificate issued by or under the authority of a contracting Government. It is, therefore, necessary to make suitable provisions in the Act for survey of cargo ships and for the issue of safety construction certificates to cargo ships.

(2) *Stability data.*—In contrast to the 1948 Convention, the 1960 Convention requires that every ship must carry on board sufficient data to enable the master, by rapid and simple processes,

to obtain accurate guidance as to the stability of a ship under varying conditions of service.

(3) *Life-saving appliances.*—The most important deviation made by the 1960 Convention in regard to life-saving appliances relates to the removal of the restriction imposed by the 1948 Convention on the use of inflatable and other rafts which depend on air for their buoyancy. Inflatable life-rafts as well as rigid life-rafts as an alternative are now acceptable, provided these comply with certain conditions.

(4) *Radio installation.*—Under the 1948 Convention, cargo ships below 500 tons gross were not required to be fitted with radio installations but under the 1960 Convention even cargo ships of less than 500 but not less than 300 tons gross are required to be fitted with such installations.

(5) *Carriage of grain cargo.*—The 1960 Convention contains a number of new requirements relating to the carriage of grain in ships. Emphasis is laid on the need for giving trimming and on the fundamental importance of preserving the stability of the ship. Duly approved grain-loading plans are required to be carried on board by ships carrying grain and such plans are required to be accepted by the other contracting Governments as evidence of compliance with the requirements of the Convention.

(6) *Carriage of dangerous goods.*—The 1960 Convention contains a number of new regulations relating to the classification, Packing, labelling, documentation and stowage of dangerous goods on board ships.

(7) *Nuclear ships.*—The 1948 Convention does not contain any special provisions relating to nuclear ships. Having regard to the new problems in the field of safety owing to the advent of nuclear power as one of the means of propulsion for merchant ships, and having regard to the hazards inherent in the nuclear ships, it is necessary to have special provisions relating to nuclear ships. The 1960 Convention contains a special Chapter for this purpose. A number of requirements are privided for in this Chapter for the purpose of ensuring that nuclear ships do not become a source of danger to life, not only at sea but also at

ports and other places and that such ships do not become a source of contamination of food and water resources.

(8) The Notes on clauses explain the other deviations made by the 1960 Convention.

3. The Bill seeks to give effect to the various deviations made by the 1960 Convention and mentioned above by making suitable amendments in the Act.

NEW DELHI ; RAJ BAHADUR.

The 2nd December, 1965.

Notes on clauses.

Clause 2.—The definitions of 'cargo ship', 'international voyage', 'nuclear ship' and 'tanker' are based upon the definitions of those expressions in the 1960 Convention. The definition of 'safety Convention' contained in clause (38) of section 3 of the Act is being amended to mean the Safety Convention of 1960. The definition of 'safety Convention certificate' in clause (38) of section 3 of the Act is being amended to include the various certificates required under the safety Convention of 1960.

Clause 3.—Section 9 of the Act provides for appointment of surveyors of ships by the Central Government. The 1960 Convention permits the contracting Governments to entrust the survey of ships to non-governmental persons or agencies. It has been decided that for the present, such power should be taken in respect of cargo ships only. Section 9 is being amended for this limited purpose.

Clauses 4, 5 *and* 6.—The changes in sections 241, 242 and 244 are of a consequential nature and are intended to make it clear that for the purposes of the said sections, a nuclear passenger ship safety certificate would, in the case of nuclear ships, have the same effect as a passenger ship safety certificate would have, in the case of non-nuclear passenger ships.

Clause 7.—The 1960 Safety Convention provides *inter alia* for the issue of safety construction certificates to cargo ships and contains several provisions as to construction rules, applicable in the case of cargo ships. Section 284 which deals with construction rules in the case of passenger ships is being amended to provide that the Central Government may make construction rules in relation to cargo ships also.

Clause 8.—The 1960 Convention permits the use of inflatable and other life-rafts. Accordingly, section 288 which deals with the power of the Central Government to make rules as to life-saving appliances is being amended to include within the purview of that section matters relating to life-rafts and the training of crew in launching and using life-rafts.

Clause 9.—(i) *Sub-clause* (*a*).—Unlike the 1948 Convention, the 1960 Convention requires even cargo ships of less than 500 tons gross but not less than 300 tons gross to be fitted with radio installation. Sub-clause (*a*) gives effect to this.

(ii) *Sub-clause* (*b*).—The amendment is of a consequential nature.

(iii) *Sub-clause* (*c*).—In the case of ships of 1600 tons gross or more, the 1960 Convention provides that every exemption from the obligation to provide with a radio telegraphy installation should be subject to the condition that the ship shall have on board a radio telephony installation. Further, the Convention prohibits exemptions from the requirements as to radio installation, radio telegraphy service and radio telephony service in cases where such exemption will have an adverse effect on the general efficiency of the distress service for the safety of ships. Sub-clause (*c*) seeks to give effect to these requirements.

Clause 10.—The 1960 Safety Convention, like the 1948 Convention requires that every ship of 1600 tons gross or more shall be provided with a radio direction finder. Further, the 1960 Convention provides for exemption being granted from this requirement in the case of ships under 5,000 tons gross in certain specified cases. Proposed sub-section (2) of section 292 given effect to the relevant provisions of the 1960 Convention as to such exemptions.

Clause 11.—This clause seeks to remove a requirement as to radio watch, which is no longer required.

Clause 12.—The amendment to sub-section (1) of section 296 of the Act is of a consequential nature. The amendment to sub-section (2) of that section empowers the Central Government to make rules as to the radio telegraphy installations on motor life-boats and survival craft and is for the purpose of implementation of the various new provisions in the 1960 Safety Convention relating to the subject.

Clause 13.—This clause seeks to amend section 297 of the Act to give effect to the new requirement in the 1960 Convention that the signalling lamp of ships of the type referred to in the section shall not be solely dependent upon the ship's main source of electrical power.

Clause 14.—The 1960 Safety Convention requires that every ship must carry on board sufficient data to enable the master, by rapid and simple processes, to obtain accurate guidance as to the stability of his ship under varying conditions of service. The Convention also requires that any change in the data should be duly communicated to the appropriate authorities of the country in which the ship is registered. The amendments to section 298 are for giving effect to these requirements.

Clause 15.—The amendments to section 299 are of a consequential nature.

Clause 16.—This clause seeks to insert two new sections, section 299A and section 299B. Both these sections relate to cargo ships and provide respectively for the issue of safety convention certificates to cargo ships as required under the 1960 Safety Convention and for the making of rules as to survey of cargo ships for the purpose of issue of such certificates.

Clauses 17 *and* 18.—The amendments to sections 300 and 301 are of a consequential nature.

Clause 19.—Section 303 provides for the duration of various safety convention certificates. The 1960 Safety Convention gives power to the contracting Governments to fix the period for which cargo ship safety construction certificates shall be valid. A period of five years has been considered reasonable and administratively convenient for this purpose. Proposed sub-section (1A) which sub-clause (b) of this clause seeks to insert in section 303 gives effect to this.

The other changes which clause 19 seeks to make in section 303 of the Act are for the purpose of giving effect to the provisions of the 1960 Safety Convention as to the duration of various safety convention certificates.

Clause 20.—The amendment to section 304 is of a consequential nature.

Clause 21.—Section 306 of the Act provides for the issue in India of safety convention certificates to ships registered in foreign countries, and also for the issue in foreign countries of such certificates to ships registered in India. The 1960 Safety

Convention provides for extension of similar facilities even to ships which are yet to be registered. The section is being amended to give effect to this.

Clause 22.—The 1960 Convention requires that even cargo ships of less than 500 tons gross but not less than 300 tons gross should have a radio telephony certificate. For this purpose, clause (c) of this clause seeks to insert a new sub-section (2A) in section 307 of the Act. The other amendments to section 307 are of a consequential nature.

Clauses 23 *and* 24.—The amendments to sections 308 and 309 are of a consequential nature.

Clause 25.—Except in cases where the prior permission of the appropriate authorities has been obtained, the 1960 Convention prohibits the making of any alterations during the interval between the completion of a survey of the ship for the issue of a certificate and the actual issue of such certificate. New section 309A seeks to give effect to this requirement.

Clause 26.—*Sub-clause* (*a*).—The 1960 Safety Convention contains a number of new regulations relating to the classification, packing, labelling, documentation and stowage of dangerous goods on board ships. Sub-section (2) of section 331 of the Act which provides for the various matters relating to dangerous goods, with regard to which the Central Government may make rules, is being amended to include the matters to which these new regulations pertain.

Sub-clause (*b*).—The definition of the expression 'dangerous goods' contained in the Explanation to section 331 is also being amended to exclude from its purview particular cargoes carried in ships, such as tankers, specially built or converted as a whole, for the purpose and thereby to bring it into conformity with the definition contained in the 1960 Safety Convention.

Clause 27.—The 1960 Convention requires the masters of grain ships to carry properly approved grain-loading plans. Proposed section 331A which clause 27 seeks to insert in the principal Act accordingly provides that no grain shall be loaded on board any Indian ship anywhere unless there is in force in

respect of such ship a duly approved grain-loading plan. The section also makes provisions for approval of grain-loading plans and matters incidental thereto.

Clause 28.—The 1960 Convention stipulates that a grain-loading plan approved by a contracting Government shall be accepted as sufficient evidence that a particular ship when loaded in accordance with such plan meets the requirements of the Convention. Sub-clause (*a*) seeks to give effect to this.

The amendments proposed in sub-clauses (*b*), (*c*), (*d*) and (*e*) are mainly of a consequential nature.

Clause 29.—The amendment is of a consequential nature.

Clause 30.—The 1960 Convention contains a special Chapter on nuclear ships. A number of requirements have been incorporated in this Chapter for the purpose of ensuring that nuclear ships do not become a source of danger to life, not only at sea but also at ports and other places and that ships do not become a source of contamination of food and water resources. This clause introduces a new Part IXA in the principal Act to give effect to the various requirements of the Convention as to nuclear ships.

New Section 344*A*.—This section deals with application of the provisions of the Act in relation to nuclear ships. Nuclear power as a means of propulsion for merchant ships presents unique problems. In the present state of development of nuclear science, it is not even possible to visualise all these problems. It will not, therefore, be advisable to apply the provisions of the Act which have been formulated with reference to the ordinary ships to nuclear ships in their entirety. Accordingly, provision is made empowering the Central Government to apply certain provisions of the Act with such exceptions, modifications and adaptations as may be specified in the notification.

Sub-section (4) of the section embodies the safeguard normally provided for in cases of delegation of such powers and it lays down that such notification shall be laid in draft before both Houses of Parliament for a period of not less than 30 days while they are in session and shall not be issued until it has been approved, whether with or without modifications, by each House of Parliament.

New Section 344*B*.—This provides for the issue of nuclear passenger ship safety certificates and nuclear cargo ship safety certificates and the periods of validity of such certificates.

New Section 344*C*.—This is self-explanatory and is intended to ensure that Indian nuclear ships do not proceed on international voyages without the requisite safety certificates required by the 1960 Convention.

New Section 344*D*.—In compliance with the 1960 Convention, this section requires every Indian nuclear ship to have on board a safety assessment and operating manual and makes provision for matters incidental thereto.

New Section 344*E*.—This requires foreign nuclear ships to give advance notice of their arrival in Indian territorial waters and provides for necessary control to ensure that there are no hazards involved in permitting the ship to enter Indian waters.

New Section 344*F*.—This is self-explanatory and it *inter alia* provides for control on the arrival of a nuclear ship at a port in India.

New Section 344*G*.—This section provides for notice of any accident anywhere to an Indian nuclear ship and of accidents to foreign nuclear ships in the territorial waters of India, to be given to the authorities mentioned in the section. It also provides for the action to be taken on receipt of such notice and for other matters incidental thereto.

New Section 344H.—Sections 228 to 231 of the principal Act deal with certificates of survey and provide for certain necessary matters in relation to certificates, such as cancellation or suspension of certificates, alterations in ships subsequent to grant of certificates, delivery of expired or cancelled certificates, affixing of certificates in conspicuous places. This section seeks to make those provisions applicable in the case of certificates issued under Part IXA on practically the same lines as Section 309 of the principal Act makes those provisions apply in relation to certain certificates issued under Part IX of the Act.

New Section 344*I*.—This section seeks to confer on the Central Government powers to frame rules to carry out the purposes of Part IXA.

Clause 31.—The amendement is intended to provide expressly for certain additional dangers to navigation which a master of an Indian ship is required to report under the section.

Clause 32.—This clause seeks to insert a new Section 354A to provide, as required by the Safety Convention, 1960. for communication of intelligence regarding dangers to navigation.

Clause 33.—This clause seeks in insert a new Section 355A for the purpose of imposing an obligation on masters of Indian ships to render assistance to persons found at sea in danger of being lost and is modelled to some extent on the provisions of Section 355 of the Act.

Clause 34.—The amendments are of a consequential nature.

Clause 35.—This clause seeks to amend Section 436 of the principal Act to provide for penalties for contravention of the various new provisions.

Clause 36.—This clause which is self-explanatory seeks to insert a new Section 454A for the purpose of incorporating in the Act an enabling provision permitted by the Convention and empowers the Central Government in this regard.

Clause 37.—By way of abundant caution, this clause seeks to add a proviso to sub-section (1) of Section 456 of the principal Act to ensure that no exemption which is prohibited by the Safety Convention is granted under the sub-section.

Clause 38.—The amendment to sub-section (2) of Section 458 of the principal Act is of a consequential nature.

Sub-clause (*b*) of this clause provides for the usual provision relating to laying of rules.

Clause 39.—This seeks to insert a new Section 468 providing for removal of difficulties in giving effect to the provisions of the Act in so far as they relate to the Safety Convention.

FINANCIAL MEMORANDUM.

New Section 354A which clause 32 seeks to insert in the principal Act provides, as required by the Safety Convention of 1960, that intelligence regarding dangers to navigation mentioned in Section 354 of the principal Act should be communicated to certain ships free of charge. The need for communicating such messages being of a highly contingent nature, it is not possible to estimate the expenditure likely to be involved as a result of the provision.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

Several provision in the 1960 Convention which are sought to be implemented by the present Bill pertain to matters of detail and such matters are best left to be regulated by rules as has been done earlier in the principal Act in connection with the implementation of the 1948 Convention.

Clause 7 seeks to amend Section 284 of the principal Act, to enable the Central Government to make rules in regard to the construction requirements for cargo ships.

Clause 8 seeks to amend Section 288 of the principal Act, to enable Central Government to make rules in regard to (*a*) training of crews in launching and using life-rafts, (*b*) provisions to be made for mustering the persons on board a ship and for embarking them in life-rafts and (*c*) the provision of suitable means situated outside the engine room whereby any discharge of water into life-rafts can be prevented.

Clause 12 seeks to insert a new clause in Section 296 of the principal Act to confer power on the Central Government to make rules in respect of radio installations on motor life-boats and survival craft.

Clause 16 seeks to insert a new section (modelled on Section 236 of the Act which deals with powers to make rules as to surveys of passenger ships)—Section 299B—in the principal Act for empowering the Central Government to make rules to regulate the making of surveys of cargo ships.

Clause 26 seeks to amend section 331 of the principal Act to enable the Central Government to make rules with regard to additional requirements relating to carriage of dangerous goods laid down by the 1960 Convention.

Clause 28 seeks to add to the rule-making power of the Central Government under sub-section (5) of section 332 of the principal Act so as to bring within its purview matters relating to grain-loading plans.

Clause 30 seeks to insert in the principal Act new Part IXA relating to nuclear ships. Proposed section 344I of this Part

seeks to confer on the Central Government powers to frame rules to carry out the purposes of the Part.

Clause 34 seeks to amend section 356 of the principal Act to enable Central Government to make rules with regard to the additional requirements under the 1960 Convention as to communication of information regarding dangers to navigation.

2. New section 344A which clause 30 seeks to insert in the principal Act relates to the application of the provisions of the principal Act to nuclear ships. Sub-section (3) of the section seeks to confer power on the Central Government to direct by notification in the Official Gazette that the provisions of the Act enumerated therein shall not apply to nuclear ships or shall apply to nuclear ships only with such exceptions, modifications and adaptations as may be specified in the notification. Such a provision is necessary as the provisions of the Act which have been designed more with a view to ordinary ships may not be capable of being directly applied to nuclear ships. Further, in view of the present state of nuclear science and the possible developments in future, it would be necessary to take such power so that the provisions of the Act are suitably modified in consonance with new developments in the field. The safeguard normally provided for in cases of delegation of such powers is embodied in sub-section (4) which provides *inter alia* that the notification proposed to be issued under sub-section (3) shall be laid in draft before both Houses of Parliament for a period of not less than 30 days while they are in session and shall not be issued until it has been approved, whether with or without modifications, by each House of Parliament.

3. The matters mentioned in paragraph 2 pertain essentially to matters of procedure and detail. The delegation of power referred to in paragraph 3 is necessary for the special reasons mentioned in that paragraph. The delegation of legislative power is, therefore, of a normal character.

B. N. BANERJEE,
Secretary.

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PART IV

Section 1-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON

NOTIFICATION.

(LAW DEPARTMENT)

No. LAW 112 *LCA* 65, *dated Bangdlore, 4th February* 1966.

Ordered that the Wakf (Amendment) Bill, 1965 (Rajya Sabha Bill No. XV of 1965) which has been published in the *Gazette of India*, Extraordinary, Part II, Section 2, dated the 7th December 1965 be republished in the *Mysore Gazette* for General information.

By Order and in the name of the Governor of Mysore,

H. K. ANANTHASUBBA RAO,
Under Secretary to Government,
Law Department.

23

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 7th December, 1965 :—

BILL NO. XV OF 1965

a bill further to amend the Wakf Act, 1954.

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Wakf (Amendment) Act, 1965.

2. *Amendment of section* 3.—In section 3 of the Wakf Act, 1954 (29 of 1954) (hereinafter referred to as the principal Act), for clause (*g*), the following clause shall be, and shall be deemed always to have been, substituted, namely :—

'(*g*) "net annual income" in relation to a wakf means the gross income thereof from all sources in a year excluding—

(*i*) any land revenue, cess, rates and taxes payable to the Government or any local authority; and

(*ii*) donations given or offerings made with a specific direction that they shall form part of the corpus of the wakf :

Provided that the interest or income, if any, accruing from such donations or offerings shall be taken into account in calculating the gross annual income ;'.

3. *Amendment of section* 7.—In section 7 of the principal Act, in sub-section (1), for the words "by all the mutawallis in proportion to the income of the property of the wakfs situated in the State,", the words "by all the mutawallis of wakfs the net annual income whereof exceeds rupees one hundred, in proportion to the income accruing in the State to such wakfs ", shall be substituted.

4. *Amendment of section* 8B.—In section 8B of the principal Act, in sub-section (1), the words "of the properties" and the words "of the property" shall be omitted.

5. *Amendment of section* 46.—In section 46 of the principal Act, in sub-section (1), for the words "net annual income of such of its property as is situate in the State", the words "net annual income accruing to the warkf in the State" shall be, and shall be deemed always to have been, substituted.

6. *Validation of contributions paid or realised under section* 46.—Notwithstanding anything contained in any law or any judgment, decree or order of any court, all contributions paid or realised, or purporting to have been paid or realised, under section 46 of the principal Act which would have been validly paid or realised if the amendments made to the principal Act by this Act were in force on the date of such payment or

realisation, shall, for all purposes, be deemed to be, and to have always been, paid or realised in accordance with law and, accordingly—

(*a*) no suit or other legal proceeding shall be mantained or continued in any court for the refund of the whole or any part of the contribution so paid or realised; and

(*b*) no court shall enforce any decree or order directing the refund of the whole or any part of the contribution so paid or realised.

STATEMENT OF OBJECTS AND REASONS

The Wakf Act, 1954 was enacted to provide for the better administration and supervision of wakfs. So far, the Act has been amended twice, once in 1959 as a follow-up measure of the States Reorganisation Act, 1956 and later in 1964, for the purpose of making the working of the Wakf Boards, set up under the Act, more effective.

2. It is felt that it is necessary to further amend the Act in certain respects.

(1) Firstly, under the Wakf Act, 1954, the contribution payable by mutawallis of the wakfs to the Board of Wakfs has to be calculated with reference to the net annual income of the wakfs. Section 3 (*g*) of the Act which defines "net income" provides that net income means "the total income less any revenue, cess, rates and taxes payable to the Government or any local authority". The intention has always been that in computing net income, no deductions other than those expressly provided for in the definition should be permitted. A contrary view has been taken in a recent case by a Division Bench of the Kerala High Court and it has, therefore, become necessary to clarify the intention in clear-cut terms by substituting a new definition of "net annual income" for the existing definition of "net income" and to validate contributions already realised in accordance with such intention. It is also proposed to avail of this opportunity to set at rest certain doubts which have been expressed as to whether income of a wakf includes donations and offerings made to the wakfs.

(2) Scondly, it is proposed to amend sections 8B and 46 of the Act to bring them into conformity with the new definition of "net annual income".

(3) Thirdly, under section 7 of the Act, all wakfs, irrespective of their income, are liable to bear the cost of survey of wakfs. It is felt that this would be an unreasonable burden in the case of wakfs with limited income, such as warkfs whose net annual income does not exceed Rs. 100. In this connection, it, may be mentioned that such wakfs are already exempt from the liability to pay any contribution to the Board of Wakfs under section 46 of the Act. It is, therefore, proposed to amend section 7 of the Act suitably to exempt wakfs of the type mentioned, from the liability to bear the cost of survey of wakfs.

3. The Bill seeks to achieve the above objects.

NEW DELHI; HUMAYUN KABIR.

The 27th November, 1965.

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, B'lore.

PART IV

Section 1-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON

NOTIFICATION.

(LAW DEPARTMENT)

No. LAW 3 LCA 66, Bangalore, dated 30th March/11th April 1966.

Ordered that the Indian Tariff (Amendment) Bill, 1966 (5 of 1966), which has been published in the *Gazette of India*, Extraordinary, Part II, Section 11, dated the 7th February 1966 be republished in the *Mysore Gazette*, for General information.

By Order and in the name of the Governor of Mysore,

H. K. ANANTHASUBBA RAO,
Under Secy. to Govt., L.D.

16

LOK SABHA

The following Bill was introduced in Lok Sabha on the 16th February, 1966 :—

BILL NO. 5 OF 1966.

A Bill further to amend the Indian Tariff Act, 1934.

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows :—

1. Short title.—This Act may be called the Indiar Tariff (Amendment) Act, 1966.

2. Amendment of First Schedule.—In the First Schedule to the Indian Tariff Act, 1934, (32 of 1934).

(*a*) in Section V, after Item 27 (9), the following Item shall be, and shall be deemed to have been, inserted with effect from the 1st day of February, 1966, namely:—

"27 (10)	Petroleum crude	Protective	20 per cent. *ad valorem*	...	...	December 31st, 1966";

(*b*) in Section XVI, in Items Nos. 72(35), 72(36) and 72(37),—

(*i*) in the third column headed "Nature of duty", for the word "Protective", the word "Revenue" shall be, and shall be deemed to have been, substituted with effect from the 1st day of January, 1966;

(*ii*) in the last column headed "Duration of protective rates of duty", the entry "December 31st, 1965" shall be, and shall be deemed to have been, omitted with effect from the 1st day of January, 1966.

3. Repeals.—The Indian Tariff (Amendment) Ordinance, 1965 (7 of 1965), and the Indian Tariff (Amendment) Ordinance, 1966 (1 of 1966), are hereby repealed.

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to replace the Indian Tariff (Amendment) Ordinance, 1965 (7 of 1965), and the Indian Tariff (Amendment) Ordinance, 1966 (1 of 1966), promulgated by the President respectively on the 31st December, 1965 and the 1st February, 1966.

2. The Indian Tariff (Amendment) Ordinance, 1965, amended the First Schedule to the Indian Tariff Act, 1934 (32 of 1934) in respect of Items Nos. 72(35), 72(36) and 72(37), thereby de-protecting the Ball Bearings Industry with effect from the 1st January, 1966. The Indian Tariff (Amendment) Ordinance, 1966, amended the said Schedule by inserting a new item as Item No. 27(10) with a view to levy protective duty on petroleum, crude, at the rate of 20 per cent *ad valorem*.

NEW DELHI,
The 7th February-1966.

MANUBHAI SHAH.

S. L. SHAKDHER,
Secretary.

NOTIFICATION.

(LAW DEPARTMENT.)

No. LAW 4 LCA 66, Bangalore, dated 30th March—11th April 1966.

Ordered that the Imports and Exports Control (Amendment) Bill, 1966 (Central Bill 14 of 1966) which has been published in the *Gazette of India*, Extraordinary, Part II, Section 11, dated the 14th February 1966 be republished in the *Mysore Gazette*, for general information.

By Order and in the name of the Governor of Mysore,

H. K. ANANTHASUBBA RAO,

Under Secy. to Govt., L. D.

LOKSABHA

The following Bill was introduced in Lok Sabha on the 22nd February, 1966.—

BILL NO. 14 OF 1966

A Bill further to amend the Imports and Exports (Control) Act, 1947.

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

1. **Short Title.**—This Act may be called the Imports and Exports (Control) Amendment Act, 1966.

2. **Amendment of Section 1.**—*In section 1 of the Imports and Exports (Control) Act, 1947* (18 of 1947) (*hereinafter referred to as the principal Act*), *in sub-section (3), for the figures* "1966", *the figures "1971" shall be substituted.*

3. Amendment of Section 3 —In section 3 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) All goods to which any order under sub-section (1) applies shall be deemed to be goods of which the import or export has been prohibited under section 11 of the Customs Act, 1962, (52 of 1962) and all the provisions of that Act shall have effect accordingly.".

4. Substitution of new section for section 5. Penalty.— For section 5 of the principal Act, the following section shall be substituted, namely:—

"5. If any person contravenes or attempts to contravene, or abets a contravention of, any order made or deemed to have been made under this Act or any condition of a licence granted under any such order, he shall, without prejudice to any confiscation or penalty to which he may be liable under the provisions of the Customs Act, 1962, (52 of 1962) be punishable with imprisonment for a term which may extend to two years and also with fine :

Provided that in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court, such imprisonment shall not be for less than six months.".

Statement of Objects and Reasons.

The Imports and Exports (Control) Act, 1947 will cease to have effect on the 31st day of March, 1966, from which date there will be no legislative sanction for the continuance of import and export controls.

2. The need for the Central Government to have legislative powers to control the foreign trade of the country is as great today as it was in 1947. The country is embarking

on an ambitious Fourth Five Year Plan. The defence requirements also are much more than in the past. The need to conserve foreign exchange is, therefore, imperative and the position needs to be controlled closely and continuously to ensure optimum utilisation of available foreign exchange resources for the purchase of goods required to sustain industrialisation, to protect the indigenous industry and to meet essential requirements of defence and export-oriented industries. On the export side, it is necessary to ensure healthy practices in our foreign trade and to safeguard the interest of the country in respect of items primarily required for home consumption particularly in the present emergency.

3. The Bill accordingly seeks to continue for another five years that is, up to 31st March, 1971, the powers at present vested in the Central Government for control and regulation of imports and exports under the aforesaid Act.

4. The Bill also seeks to amend section 5 of the Act to make provision for a minimum penalty in pursuance of the recommendations of the Committee on Prevention of Corruption.

5. Opportunity has been taken to make certain changes in the Act, consequential on the repeal of the Sea Customs Act, 1878 and the enactment of the Customs Act, 1962 in its place.

NEW DELHI ; MANUBHAI SHAH.

The 14th February 1966.

Financial Memorandum

The Imports and Exports (Control) Amendment Bill, 1966 seeks to extend the life of the existing Imports and Exports (Control) Act, 1947 by another five years from 31st March, 1966. The Import and Export Trade Control Organisation is an existing Organisation and it is proposed

to continue this Organisation for the extended period of the Act. The revised estimated expenditure on this Organisation for the year 1965–66 is Rupees, one crore eleven lakhs four thousand seven hundred and the budget estimate proposed for this Organisation for the year 1966–67 is Rupees one crore nineteen lakhs eighty-two thousand one hundred. It is not possible at the present stage to indicate precisely the likely extra expenditure that will be incurred on this Organisation for the years subsequent to 1966–67, except to say that it is likely to be more or less on the same pattern. In any case, no expenditure will be incurred without due appropriation made by Parliament by law in this behalf.

S. L. SHAKDHER,

Secretary.

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, B'lore

PART IV

Section 1-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON

NOTIFICATION.

(LAW DEPARTMENT).

No. LAW 119 LCA 65, dated Bangalore, 25th February—4th March 1966.

Ordered that the Criminal Law Amendment (Amendment) Bill, 1965 (Lok Sabha Bill No. 85 of 1965), which has been published in the *Gazette of India*, Extraordinary, Part II, Section 2, dated the 3rd December 1965, be republished in the *Mysore Gazette*, for general information.

By Order and in the name of the Governor of Mysore,

H. K. ANANTHASUBBA RAO,
Under Secy. to Govt., L. D.

28

LOK SABHA

The following Bills were introduced in Lok Sabha on the 3rd December, 1965:—

BILL NO. 85 OF 1965

A Bill further to amend the Criminal Law Amendment Act, 1952.

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Criminal Law Amendment (Amendment) Act, 1965.

2. *Amendment of section 8.*—In sub-section (3A) of section 8 of the Criminal Law Amendment Act, 1952 (46 of 1952) (hereinafter referred to as the principal Act), for the word and figures "section 350", the words and figures "sections 350 and 549" shall be substituted.

3. *Insertion of new section 11.*—After section 10 of the principal Act, the following section shall be inserted, and shall be deemed always to have been inserted, namely :—

"11. *Military, naval and air force laws not to be affected.*—(1) Nothing in this Act shall affect the jurisdiction exercisable by, or the procedure applicable to, any court or other authority under any military, naval or air force law.

(2) For the removal of doubts it is hereby declared that for the purposes of any such law as is referred to in sub-section (1), the Court of the special Judge shall be deemed to be a court of ordinary criminal justice.".

4. *Validation and indemnity.*—No trial or other proceeding held or taken before, and no sentence passed by a court-martial or any other authority under any military, naval or air force law before the commencement of the Criminal Law Amendment (Amendment) Act, 1965, shall be called in question in any court merely on the ground that the court-martial or other authority had no jurisdiction by virtue of the provisions of the Criminal Law Amendment Act, 1952 (46 of 1952) and all such trials, proceedings and sentences shall, notwithstanding any judgment or order of any court, be as valid and operative as if they had been held, taken or passed in accordance with law; and accordingly no suit or other legal proceeding shall be maintained or continued against any person whatever on the ground that any such trial, proceeding or sentence was not held, taken or passed in accordance with law.

STATEMENT OF OBJECTS AND REASONS

Under section 7 (1) of the Criminal Law Amendment Act, 1952, notwithstanding anything contained in the Code of Criminal Procedure or in any other law, the offences specified in section 6 (1) of the Act are triable by special Judges only. In the light of the judgment of the Supreme Court in Major E. G. Barsay *v.* State of Bombay (A.I.R 1961 S.C. 1762), the view has been taken that the exclusive jurisdiction conferred upon the special Judge by section 7 (1) of the Act would exclude the trial by a court-martial or other authority of any offence, the facts of which are such as to constitute an offence under section 6 (1) of the Act. The view on which the military authorities have been proceeding so far, however, is that the jurisdiction in this respect is concurrent. It has, therefore, become necessary to amend the Act so as to insert a new section therein, as from the commencement of the Act, to save the jurisdiction exercisable by a court martial or other authority under the Army, Navy and Air Force Acts and to validate the trials held, proceedings taken and sentences passed by courts-martial and other competent authorities.

The Bill is intended to achieve the above objects.

NEW DELHI;
The 25th November, 1965.

JAISUKHLAL HATHI.

NOTIFICATION.

(LAW DEPARTMENT)

No. LAW 114 LCA 65, dated Bangalore, 25th February—4th March 1966.

Ordered that the Indian Tariff (Amendment) Bill, 1965 (Lok Sabha Bill No. 89 of 1965) which has been published in the *Gazette of India*, Extraordinary, Part II, Section 2, dated the 3rd December 1965, be republished in the *Mysore Gazette*, for general information.

By Order and in the name of the Governor of Mysore,

H. K. ANANTHASUBBA RAO,
Under Secy. to Govt., L. D.

27

LOK SABHA

The following Bill was introduced in Lok Sabha on the 3rd December, 1965.

BILL No. 89 OF 1965.

a Bill further to amend the Indian Tariff Act, 1934.

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Indian Tariff (Amendment) Act, 1965.

(2) It shall come into force on the 1st day of January, 1966.

2. *Amendment of First Schedule.*—In the First Schedule to the Indian Tariff Act, 1934 (32 of 1934) in Items Nos. 34(4), 60(7), 64(3), 64(5), 68(2A), 70A, 70(5), 72(14), 72 (39) and 75(16),—

(*a*) in thethird column headed "Nature of duty ", for the word " Protective", wherever it occurs, the word "Revenue" shall be substituted;

(*b*) in the last column headed " Duration of protective rates of duty", the entry " December 31st, 1965", wherever it occurs, shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to amend the First Schedule to the Indian Tariff Act, 1934 (32 of 1934), in order to implement Government decisions on the Reports of the Tariff Commission on certain industries.

2. The industries in respect of which protection will be discontinued from 1st January, 1966 are :—

S. No.	Item No. of Tariff	Name of Industry
1.	94(4)	Safety Matches.
2.	60(7)	Sheet Glass.
3.	64(3), 64(5), 68(2A), 70A and 70(5)	Non-Ferrous Metals.
4.	72(14)	Electric Motors.
5.	72(39)	Power and Distribution Transformers.
6.	75(16) .	Automobile Sparking Plugs.

NEW DELHI ;
The 30th November, 1965.

MANUBHAI SHAH

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, B'lore.

PART IV

Section 1-A

CENTRAL BILLS AND REORTS OF SELECT COMMITTEES THEREON

LAW SECRETARIAT

NOTIFICATION

(LAW DEPARTMENT)

No. LAW 121 *LCA* 65, *Bangalore, dated 25th February—4th March* 1966.

Ordered that the Maternity Benefit (Amendment) Bill, 1965, (Central Bill No. XVIII of 1965 of Rajya Sabha), which has been published in the *Gazette of India*, Extraordinary, Part II, Section 2, dated the 11th December 1965, be republished in the *Mysore Gazette* for general information.

By Order and in the name of the Governor of Mysore,

H. K. ANANTHASUBBA RAO,
Under Secretary to Government,
Law Department.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 11th Deeember, 1965 :—

BILL NO. XVIII OF 1965

A bill to amend the Maternity Benefit Act, 1961.

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Maternity Benefit (Amendment) Act, 1965.

2. *Amendment of Section* 2.—In Section 2 of the Maternity Benefit Act, 1961 [53 of 1961], (hereinafter referred to as the principal Act), in sub-section (2), for the words "Nothing contained in this Act", the words, figure and letter "Save as otherwise provided in Section 5A, nothing contained in this Act" shall be substituted.

3. *Insertion of new Section* 5A.—After Section 5 of the principal Act, the following section shall be inserted, namely :—

"5A. *Continuanc of payment of maternity benefit in certain cases.*—Every woman entitled to the payment of maternity benefit under this Act shall, notwithstanding the application of the Employees' State Insurance Act, 1948 [34 of 1948], to the factory or other establishment in which she is employed, continue to be so entitled until she becomes qualified to claim maternity benefit under Section 50 of that Act."

STATEMENT OF OBJECTS AND REASONS

The Maternity Benefit Act, 1961 does not, by reason of the provisions of sub-section (2) of Section 2 thereof, apply to any factory, or other establishment to which the provisions of the Employees' State Insurance Act, 1948, apply. Consequently, a woman worker employed in a factory or other establishment and entitled to maternity benefit under the Maternity Benefit Act, 1961, ceases to be so entitled when the provisions of the Employees' State Insurance Act, 1948 become applicable to such factory or establishment. But, such a woman unless she fulfils the conditions laid down under Section 50 of the Employees' State Insurance Act, 1948 is not qualified to claim any maternity benefit thereunder. Thus, she is deprived of maternity benefit under both the Acts. To remove this lacuna, it is proposed to amend the Maternity Benefit Act, 1961, so as to provide that in the event of the application of the Employees' State Insurance Act, 1948 to any factory or establishment, maternity benefit under the Maternity Benefit Act would continue to be available to women workers therein, until they become qualified to claim similar benefit under the Employees' State Insurance Act.

D. SANJIVAYYA.

NEW DELHI,

The 7th December, 1965.

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to introduce a new Section 5A in the Maternity Benefit Act, 1961. This Section provides for continuance of payment of maternity benefit under the Maternity Benefit Act, 1961, to women workers working in a factory or establishment to which the provisions of the Employees' State Insurance Act, 1948, have become applicable, until such time as they become entitled to similar benefit under the Employees' State Insurance Act, 1948. This imposes a financial liability on employers (including the Central Government) to pay the maternity benefit in such cases. It is, however, difficult to estimate the number of women workers in Central Government factories or establishments who will be eligible for maternity benefit under the proposed section. It is, therefore, not possible to give a precise estimate of the additional expenditure involved from the Consolidated Fund of India on this account.

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PART IV

Section 1-A

CENTRAL BILLS AND REORTS OF SELECT

NOTIFICATION.

(LAW DEPARTMENT)

No. LAW 18 LCA 66, Bangalore, dated 6th—20th June 1966.

Ordered that the Constitution (Nineteenth Amendment) Bill, 1966 (Bill No. 36 of 1966), which has been published in the *Gazette of India*, Extraordinary, Part II, Section 2, dated the 9th May 1965, be republished in the *Mysore Gazette*, for general information.

By Order and in the name of the Governor of Mysore,

26 H. K. ANANTHASUBBA RAO,
Under Secy. to Govt., L. D.

LOK SABHA

The following Bill was introduce in Lok Sabha on the 9th May 1966 :—

BILL No. 36 OF 1966

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

1. **Short title.**—This Act may be called the Constitution (Nineteenth Amendment) Act, 1966.

2. **Amendment of article 3.**—In article 3 of the Constitution the following *Explanations* shall be inserted at the end, namely :—

'*Explanation I.*—In this article, in clauses (*a*) to (*e*) "State" includes a Union territory, but in the proviso, "State" does not include a Union territory.

Explanation II.—The power conferred on Parliament by clause (*a*) includes the power to form a new State or Union territory by uniting a part of any State or Union territory to any other State or Union territory.'.

STATEMENT OF OBJECTS AND REASONS

Article 3 of the Constitution provides for the formation of new States and alteration of areas, boundaries, or names of existing States. Before the Constitution (Seventh Amendment) Act, 1956, was enacted, the expression "States" occurring in that article meant Part A States, Part B States and also Part C States. By the Seventh Amendment of the Constitution in 1956, the concept of "Union territories" was introduced in our Constitution but article 3 was not amended to include *in terms* "Union territories". It is considered proper to amend this article to make it clear that "State" in clauses (*a*) to (*e*) of that article (but not in the proviso) includes "Union territories". It is also considered proper to make it clear that power under clause (*a*) of article 3 includes power to form a new State or Union territory by uniting a part of a State or Union territory to another State or Union territory.

The Bill seeks to achieve the above objects.

NEW DELHI;
The 30th April, 1966.

G. L. NANDA.

S. L. SHAKDHER, *Secy.*

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, Bloo

PART IV

Section 1-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON

GOVERNMENT OF MYSORE

LAW DEPARTMENT

NOTIFICATION

No. LAW 123 LCA 65, Bangalore, dated 25th February and 4th March 1966.

Ordered that the Beedi and Cigar Workers (Conditions of Employment) Bill, 1965 (Central Bill No. XXI of 1965 of Rajya Sabha), which has been published in the *Gazette of India*, Extraordinary, Part II, Section 2, dated the 11th December 1965 be republished in the *Mysore Gazette*, for general information.

By Order and in the name of the Governor of Mysore,

H. K. ANANTHASUBBA RAO,
Under Secretary to Government,
Law Department.

III

BILL NO: XXI OF 1965

A bill to provide for the welfare of the workers in Beedi and Cigar establishments and to regulate the conditions of their works and for matters connected therewith.

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Beedi and Cigar Workers (Conditions of Employment) Act, 1965.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force in a State on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed by the State Government for different areas and for different provisions of this Act.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(*a*) "adult" means a person who has completed eighteen years of age;

(*b*) "child" means a person who has not completed fourteen years of age;

(*c*) "competent authority" means any authority authorised by the State Government by notification in the Official Gazette to perform all or any of the functions of the competent authority under this Act and for such areas as may be specified therein;

(*d*) "contractor," means a person who, in relation to a manufacturing process, undertakes to produce a given result by executing the work through contract labour or who engages labour for any manufacturing process in a private dwelling house and includes a sub-contractor, agent, *munshi, thekedar* or *sattedar;*

(*e*) "contract labour" means any person engaged or employed in any premises by or through a contractor, with or without the knowledge of the employer, in any manufacturing process;

(*f*) "employee" means a person employed directly or through any agency, whether for wages, or not, in any establishment to do any work skilled, unskilled, manual or clerical, and includes—

(i) any labour who is given raw materials by an employer or a contractor for being made into Beedi or Cigar or both at home, and

(ii) any person not employed by an employer or a contractor but working with the permission of, or under agreement with, the employer or contractor;

(*g*) "employer" means,—

(*a*) in relation to contract labour, the principal employer, and

(*b*) in relation to other labour, the person who has the ultimate control over the affairs of any establishment or who has, by reason of his advancing money, supplying goods or otherwise, a substantial interest in the control of the affairs of any establishment, and includes any other person to whom the affairs of the establish-

ment are entrusted, whether such other person is called the managing agent, manager, superintendent or by any other name

(*h*) "establishment" means any place or premises including the precincts thereof in which or in any part of which any manufacturing process connected with the making of Beedi or Cigar or both is being, or is ordinarily, carried on and includes an industrial premises;

(*i*) "industrial premises" means any place or premises (not being a private dwelling house), including the precincts thereof, in which or in any part of which any industry or manufacturing process connected with the making of Beedi or Cigar or both is being, or is ordinarily, carried on with or without the aid of power;

(*j*) "Inspector" means an Inspector appointed under sub-section (1) of section 6;

(*k*) "manufacturing process" means any process for, or incidental to, making, finishing or packing or otherwise treating any article or substance with a view to its use, sale, transport, delivery or disposal as beedi or cigar or both;

(*l*) "prescribed" means prescribed by rules made by the State Government under this Act;

(*m*) "principal employer" means an employer who employs contract labour in any establishment;

(*n*) "private dwelling house" means a house in which persons engaged in the manufacture of beedi or cigar or both reside;

(*o*) "State Government", in relation to a Union territory, means the Administrator thereof;

(*p*) "week" means a period of seven days beginning at midnight on Saturday;

(*q*) "young person" means a person who has completed fourteen years of age but has not completed eighteen years of age.

3. *Industrial premises to be licensed.*—Save as otherwise provided in this Act, no employer shall use or allow to be used any place or premises as an industrial premises unless he holds a valid licence issued under this Act and no such premises shall be used except in accordance with the terms and conditions of such licence.

4. *licences.*—(1) Any person who intends to use or allows to be used any place or premises as industrial premises shall make an application in writing to the competent authority, in such form and on payment of such fees as may be prescribed. for a licence to use, or allow to be used, such premises as an industrial premises.

(2) The application shall specify the maximum number of employees proposed to be employed at any time of the day in the

(8) Subject to the foregoing provisions of this section, the competent authority may grant or renewal licences under this Act on such terms and conditions as it may determine and where the competent authority refuses to grant or renewal any licence, it shall do so by an order communicated to the applicant, giving the reasons in writing for such refusal.

5. *Appeals.*—Any person aggrieved by the decision of the competent authority refusing to grant or renew a licence or cancelling or suspending a licence may, within such time and on payment of such fees, not exceeding twenty rupees, as may be prescribed, appeal to such authority as the State Government may, by notification in the Official Gazette, specify in this behalf, and such authority may by order confirm, modify or reverse any order refusing to grant or renew a licence or cancelling or suspending a licence.

6. *Inspectors.*—(1) The State Government may, by notification in the Official Gazette, appoint such of its officers, or such officers of any local authority as it thinks fit to be Inspectors for the purposes of this Act and may assign to them such local limits as it may think fit.

(2) The State Government may, by notification in the Official Gazette, appoint any person to be a Chief Inspector who shall exercise the powers of an Inspector throughout the State.

(3) Every Chief Inspector and Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

7. *Powers of Inspectors.*—(1) Subject to any rules made by the State Government in this behalf, an Inspector may, within the local limits for which he is appointed,—

(*a*) make such examination and hold such inquiry as may be necessary for ascertaining whether the provisions of this Act have been or are being complied with in any place or premises;

Provided that no person shall be compelled under this section to answer any question or to give any evidence which may tend to incriminate himself;

(*b*) require the production of any prescribed register and any other document relating to the manufacture of beedi or cigar or both;

(*c*) enter, with such assistants as he thinks fit, at all times any place or premises including the residences of employees if he has reasonable grounds for suspecting that any manufacturing process is being carried on or is ordinarily carried on in any such place or premises;

(*d*) exercise such other powers as may be prescribed.

(2) If an Inspector has reasonable grounds for suspecting that any manufacturing process is being carried on in any establishment in contravention of the provisions of this Act, he may, after giving due notice to the employer or, in the absence of the employer, to the occupier, enter such establishment with such assistants, if any, as he may think fit.

(3) Every employer or occupier shall accord to the Chief Inspector or the Inspector, as the case may be, all reasonable facilities in the discharge of his duties under this Act.

8. *Cleanliness.*—Every industrial premises shall be kept clean and free from effluvia arising from any drain, privy or other nuisance and shall also maintain such standard of cleanliness including white washing, colour washing, varnishing or painting, as may be prescribed.

9. *Ventilation.*—(1) For the purpose of preventing injury to the health of the persons working therein, every industrial premises shall maintain such standards of lighting, ventilation and temperature, as may be prescribed.

(2) Wherever dust or fume or other impurity of such a nature and to such an extent as is likely to be injurious or offensive to the persons employed in any industrial premises is given off by reason of the manufacturing process carried on in such premises, the competent authority may require the employer to take such effective measures as may prevent the inhalation of such dust, fume or other impurity and accumulation thereof in any work room.

10. *Overcrowding.*—(1) No room in any industrial premises shall be overcrowded to an extent injurious to the health of the persons employed therein.

(2) Without prejudice to the generality of sub-section (1), there shall be in any work room of such premises at least four and a quarter cubic metres of space for every person employed therein, and for the purposes of this sub-section, no account shall be taken of any space which is more than three metres above the level of the floor of the work room.

11. *Drinking water.*—(1) The employer shall make in every industrial premises effective arrangements to provide and maintain at suitable points conveniently situated for all persons employed therein, a sufficient supply of wholesome drinking water.

(2) All such points shall be legibly marked "drinking water" in a language understood by the majority of the persons employed in

the industrial premises and no such point shall be situated within six metres of any washing place, urinal or latrine except with the prior approval in writing of the competent authority.

12. *Latrines and urinals.*—(1) In every industrial premises, sufficient latrine and urinal accommodation of such types as may be prescribed shall be provided and shall be so conveniently situated as may be accessible to the employees at all times while they are in the industrial premises :

Provided that it shall not be necessary to provide separate urinals in industrial premises where less than fifty persons are employed or where the latrines are connected to a water-borne sewage system.

(2) The State Government may specify the number of latrines and urinals which shall be provided in any industrial premises in proportion to any number of male and female employees ordinarily employed therein, and may provide for such further matters in respect of sanitation in the industrial premises including obligation of the employees in this regard as it may consider necessary in the interest of the health of the persons employed therein.

13. *Washing facilities.*—In every industrial premises, where blending or sieving or both of tobacco or warming of beedi in hot ovens is carried on, the employer shall provide such washing facilities for the use of the employees, as may be prescribed.

14. *Creches.*—(1) In every industrial premises wherein more than fifty female employees are ordinarily employed, there shall be provided and maintained a suitable room or rooms for the use of children under the age of six years of such female employees.

(2) Such rooms shall—

(*a*) provide adequate accommodation ;

(*b*) be adequately lighted and ventilated ;

(*c*) be maintained in a clean and sanitary condition ;

(*d*) be under the charge of women trained in the care of children and infants.

(3) The State Government may make rules,—

(*a*) prescribing the location and the standards in respect of construction, accommodation, furniture and other equipment of rooms to be provided under this section.

(*b*) requiring the provision in any industrial premises to which this section applies, of additional facilities for the care of children

belonging to female employees, including suitable provision of facilities for washing and changing their clothing ;

(*c*) requiring the provision in any industrial premises of free milk or refreshment of both for such children ;

(*d*) requiring that facilities shall be given in any industrial premises for the mothers of such children to feed them at necessary intervals.

15. *First aid*.—Every industrial premises shall provide such first aid facilities as may be prescribed.

16. *Canteens*.—The State Government may, by rules, require the employer to provide and maintain in every industrial premises wherein not less than two hundred and fifty employees are ordinarily employed, a canteen for the use of the employees.

17. *Working hours*.—No employee shall be required or allowed to work in any industrial premises for more than nine hours in any day or for more than forty-eight hours in any week :

Provided that any adult employee may be allowed to work in such industrial premises for any period in excess of the limit fixed under this section subject to the payment of overtime wages if the period of work, including overtime work, does not exceed ten hours in any day and in the aggregate fifty-four hours in any week.

18. *Wages for overtime work*.—(1) Where any employee employed in any industrial premises is required to work overtime, he shall be entitled in respect of such overtime work, to wages at the rate of twice his ordinary rate of wages.

(2) Where the employees in an industrial premises are paid on a piece-rate basis, the overtime rate shall be calculated, for the purposes of this section, at the time rates which shall be as nearly as possible equivalent to the daily average of their full time earnings for the days on which they had actually worked during the week immediately preceding the week in which the overtime work has been done.

(3) For the purposes of this section, " ordinary rates of wages " means the basic wages plus such allowance, including the cash equivalent of the advantage accruing through the concessional sale to the employees of foodgrains and other articles as the employee is for the time being entitled to but does not include bonus.

(4) The cash equivalent of the advantage accruing through the concessional sale to an employee of foodgrains and other articles shall

be computed as often as may be prescribed on the basis of the maximum quantity of foodgrains and other articles admissible to a standard family.

Explanation I.—"Standard family" means a family consisting of the empolyee, his or her spouse and two children requiring in all three adult consumption units.

Explanation II.—"Adult consumption units" means the consumption unit of a male above the age of fourteen years; and the consumption unit of a female above the age of fourteen years and that of a child shall be calculated at the rate of eight-tenths and six-tenths, respectively, of one adult consumption unit.

19. *Interval for rest.*—The periods of work for employees in an industrial premises each day shall be so fixed that no period shall exceed five hours and that no employee shall work for more than five hours before he has had an interval for rest of at least half an hour.

20. *Spread over.*—The periods of work of an employee in an industrial premises shall be so arranged that inclusive of his intervals for rest under Section 19, they shall not spread over more than ten and a half hours in any day:

Provided that the Chief Inspector may, for reasons to be specified in writing, increase the spread over to twelve hours.

21. *Weekly holidays.*—(1) Every industrial premises shall remain entirely closed, except for wetting of beedi or tobacco leaves, on one day in the week which day shall be specified by the employer in a notice exhibited in a conspicuous place in the industrial premises and the day so specified shall not be altered by the employer more often than once in three months and except with the previous written permission of the Chief Inspector.

(2) Notwithstanding anything contained in sub-section (1), an employee employed in the said premises for wetting of beedi or tobacco leaves on the day on which it remains closed in pursuance of sub-section (1), shall be allowed a substituted holiday on one of the three days immediately before or after the said day.

(3) For a holiday under this section, an employee shall be paid, notwithstanding any contract to the contrary, at the rate equal to the daily average of his total full time earnings for the days on which he had worked during the week immediately preceding the holiday exclusive of any overtime earnings and bonus but inclusive of dearness and other allowances.

Explanation.—The expression "total full time earnings" shall have the meaning assigned to it in Section 27.

22. *Notice of periods of work.*—(1) There shall be displayed and correctly maintained in every industrial premises a notice of periods of work in such form and in such manner as may be prescribed, showing clearly for every day the periods during which the employees may be required to work.

(2) (*a*) A copy of the notice referred to in sub-section (1) shall be sent in triplicate to the Inspector having jurisdiction over the industrial premises within two weeks from the date of the grant of a licence for the first time under this Act, in the case of any industrial premises carrying on work at the commencement of this Act, and in the case of any industrial premises beginning work after such commencement, before the day on which the work is begun in the industrial premises.

(*b*) Any proposed change in the system of work which will necessitate a change in the notice referred to in sub-section (1) shall be notified to the Inspector in triplicate before the change is made and except with the previous sanction of the Inspector, no such change shall be made until one week has elapsed since the last change.

23. *Hours of work to correspond with notice under Section* 22.—No employee shall be employed in any industrial premises otherwise than in accordance with the notice of work displayed in the premises under Section 22.

24. *Prohibition of employment of children.*—No child shall be required or allowed to work in any industrial premises.

25. *Prohibition of employment of women or young persons during certain hours.*—No woman or young person shall be required or allowed to work in any industrial premises except between 6 A.M. and 7 P.M.

26. *Annual leave with wages.*—(1) Every employee in an establishment shall be allowed in a calendar year leave with wages :—

(*i*) in the case of an adult, at the rate of one day for every twenty days of work performed by him during the previous calendar year ;

(*ii*) in the case of a young person at the rate of one day for every fifteen days of work performed by him during the previous calendar year.

Explanation.—The leave admissible under this sub-section shall be exclusive of all holidays whether occurring during, or at the beginning or at the end of, the period of leave.

(2) If an employee is discharged or dismissed from service or quits employment during the course of the year, he shall be entitled to leave with wages at the rate laid down in sub-section (1).

(3) In calculating leave under this section, any fraction of leave of half a day or more shall be treated as one full day's leave and any fraction of less than half a day shall be omitted.

(4) If any employee does not, in any calendar year, take the whole of the leave allowed to him under sub-section (1), the leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year :

Provided that the total number of days of leave that may be carried forward to a succeeding year shall not exceed thirty in the case of an adult or forty in the case of a young person.

(5) An application of an employee for the whole or any portion of the leave allowed under sub-section (1) shall be in writing and ordinarily shall have to be made sufficiently in advance of the day on which he wishes the leave to begin.

(6) If the employment of an employee who is entitled to leave under sub-section (1) is terminated by the employer before he has taken the entire leave to which he is entitled, or if having applied for leave, he has not been granted such leave, or if the employee quits his employment before he has taken the leave, the employer shall pay him the amount payable under section 27 in respect of leave not taken and such payment shall be made, where the employment of the employee is terminated by the employer, before the expiry of the second working day after such termination and where the employee quits his employment, on or before the next pay day.

(7) The leave not availed of by an employee shall not be taken into consideration in computing the period of any notice required to be given before discharge or dismissal.

27. Wages during leave period.—(1) For the leave allowed to him under section 26, an employee shall be paid at the rate equal to the daily average of his total full time earnings for the days on which he had worked during the month immediately preceding his leave exclusive of any overtime earnings and bonus but inclusive of dearness and other allowances.

Explanation.—In this sub-section, the expression "total full time earnings" includes the cash equivalent of the advantage accruing through the concessional sale to employees of foodgrains and other articles, as the employee is for the time being entitled to, but does not include bonus.

(2) An employee who has been allowed leave for not less than four days in the case of an adult and five days in the case of a young person, shall, before his leave begins, be paid wages due for the period of the leave allowed.

28. *Application of the Payment of Wages Act, 1936 to industrial premises.*—(1) Notwithstanding anything contained in the Payment of Wages Act, 1936 (4 of 1936) (hereinafter referred to in this section as the said Act), the State Government may, by notification in the Official Gazette, direct that all or any of the provisions of the said Act or the rules made thereunder shall apply to all or any class of employees in establishments or class of establishments to which this Act applies and on such application of the provisions of the said Act, an Inspector appointed under this Act shall be deemed to be the Inspector for the purposes of enforcement of such provisions of the said Act within the local limits of his jurisdiction.

(2) The State Government may, by a like notification, cancel or vary any notification issued under sub-section (1).

29. *Special provisions.*—(1) The State Government may permit the wetting or cutting of beedi or tobacco leaves by employees outside the industrial premises on an application made to it by the employer on behalf of such employees.

(2) The employer shall maintain in the prescribed form a record of the work permitted under sub-section (1) to be carried on outside the industrial premises.

(3) Save as otherwise provided in this section, no employer shall require or allow any manufacturing process connected with the making of beedi or cigar or both to be carried on outside the industrial premises :

Provided that nothing in this sub-section shall apply to any labour who is given raw material by an employer or a contractor for being made into beedi or cigar or both at home.

30. *Onus as to age.*—(1) When any act or omission would, if a person were under a certain age, be an offence punishable under this Act and such person is, in the opinion of the court, *prima facie* under such age, the burden shall be on the accused to prove that such person is not under such age.

(2) A declaration in writing by a medical officer not below the rank of a Civil Assistant Surgeon relating to an employee that he has personally examined him and believes him to be under the age stated in such declaration, shall, for the purposes of this Act and the rules made thereunder, be admissible as evidence of the age of that employee.

31. *Notice of dismissal.*—(1) No employer shall dispense with the services of an employee who has been employed for a period of six months or more, except for a reasonable cause, and without giving such employee at least one month's notice or wages in lieu of such notice :

Provided that such notice shall not be necessary if the services of such employee are dispensed with on a charge of misconduct supported by satisfactory evidence recorded at an inquiry held by the employer for the purpose.

(2) (*a*) The employee discharged, dismissed or retrenched may appeal to such authority and within such time as may be prescribed either on the ground that there was no reasonable cause for dispensing with his services or on the ground that he had not been guilty of misconduct as held by the employer or on the ground that such punishment of discharge or dismissal was severe.

(*b*) The appellate authority may, after giving notice in the prescribed manner to the employer and the employee, dismiss the appeal or direct the reinstatement of the employee with or without wages for the period during which he was kept out of employment or direct payment of compensation without reinstatement or grant such other relief as it deems fit in the circumstances of the case.

(3) The decision of the appellate authority shall be final and binding on both the parties and be given effect to within such time as may be specified in the order of the appellate authority.

32. *Penalty for obstructing Inspector.*—Whoever obstructs the Chief Inspector or an Inspector in the exercise of any powers conferred on him by or under this Act, or fails to produce on demand by the Chief Inspector or an Inspector any register or other document kept in his custody in pursuance of this Act or of any rules made thereunder, or conceals or prevents any employee in an industrial premises from appearing before or being examined by the Chief Inspector or an Inspector, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

33. *General penalty for offence.*—(1) Save as otherwise expressly provided in this Act, any person who contravenes any of the provisions of this Act or of any rule made thereunder, or fails to pay wages or compensation in accordance with any order of the appellate authority passed under clause (*b*) of sub-section (2) of Section 31, shall, be punishable, for the first offence, with fine which may extend to two hundred and fifty rupees and for a second or any subsequent offence with imprisonment for a term which shall not be

less than one month or more than six months or with fine which shall not be less than one hundred rupees or more than five hundred rupees or with both.

(2) (*a*) Any employer who fails to reinstate any employee in accordance with the order of the appellate authority passed under clause (*b*) or sub-section (2) of Section 31, shall be punishable with fine which may extend to two hundred and fifty rupees.

(*b*) Any employer, who, after having been convicted under clause (*a*), continues, after the date of such conviction, to fail to reinstate an employee in accordance with the order mentioned in that clause, shall be punishable, for each day of such default, with fine which may extend to twenty rupees.

(*c*) Any Court trying an offence punishable under this sub-section may direct that the whole or any part of the fine, if realised, shall be paid, by way of compensation, to the person, who, in its opinion, has been injured by such failure.

(3) Notwithstanding anything contained in the Payment of Wages Act, 1936 (4 of 1936) with regard to the definition of wages, any compensation required to be paid by an employer under clause (*b*) of sub-section (2) of Section 31 but not paid by him shall be recoverable as delayed wages under the provisions of that Act.

(4) It shall be no defence in a prosecution of any person for the contravention of the provisions of Section 3 that any manufacturing process connected with the making of beedi or cigar or both was carried on by such person himself or by any member of his family or by any other person living with or dependent on such person.

34. *Offences by companies.*—(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was incharge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that the exercise all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such

director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(*a*) "company" means anybody corporate and includes a firm, and other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

35. *Indemnity.*—(1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

36. *Cognizance of offences.*—(1) No Court shall take cognizance of any offence punishable under this Act except upon a complaint made by, or with the previous sanction in writing of the Chief Inspector or an Inspector within three months of the date on which the alleged commission of the offence came to the knowledge of the Inspector:

Provided that where the offence consists of disobeying a written order made by the competent authority, the Chief Inspector or an Inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

(2) No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under this Act.

37. *Application of the Industrial Employment (Standing Orders) Act,* 1946 *and the Maternity Benefit Act,* 1961.—(1) The provisions of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), shall apply to every industrial premises wherein fifty or more persons are employed or were employed on any one day of the preceding twelve months as if such industrial premises were an industrial establishment to which that Act has been applied by a notification under sub-section (3) of section 1 thereof, and as if the employee in the said premises were a workman within the meaning of that Act.

(2) Notwithstanding anything contained in sub-section (1), the State Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply all or any of the provisions of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), to any industrial premises wherein less than fifty employees are employed or were employed on any one day of the preceding twelve months as if such industrial premises were an industrial establishment to which that Act has been applied by a notification under sub-section (3) of section 1 thereof, and as if the employee in the said premises were a workman within the meaning of that Act.

(3) Notwithstanding anything contained in the Maternity Benefit Act, 1961 (53 of 1961), the provisions of that Act shall apply to every establishment as if such establishment were an establishment to which that Act has been applied by a notification under sub-section (1) of section 2 thereof.

38. *Certain provisions not to apply to industrial premises.*—(1) Chapter IV and Section 85 of the Factories Act, 1948 (62 of 1948), shall apply to an industrial premises and the rest of the provisions in that Act shall not apply to any industrial premises.

(2) Nothing contained in any law relating to the regulation of the conditions of work of workers in shops or commercial establishments shall apply to any establishment to which this Act applies.

39. *Application of the Industrial Disputes Act,* 1947.—(1) The provisions of the Industrial Disputes Act, 1947 (14 of 1947), shall apply to matters arising in respect of every industrial premises.

(2) Notwithstanding anything contained in sub-section (1), a dispute between an employer and employee relating to—

(*a*) the issue by the employer of raw-materials to the employees,

(*b*) the rejection by the employer of beedi or cigar or both made by an employee,

(*c*) the payment of wages for the beedi or cigar or both rejected by the employer,

shall be settled by such authority and in such summary manner as the State Government may by rules specify in this behalf.

(3) Any person aggrieved by a settlement made by the authority specified under sub-section (2) may prefer an appeal to such authority and within such time as the State Government may, by notification in the Official Gazette, specify in this behalf.

(4) The decision of the authority specified under sub-section (3) shall be final.

40. *Effect of laws and agreements inconsistent with this Act.*— (1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in the terms of any award, agreement, or contract of service whether made before or after the commencement of this Act :

Provided that where under any such award, agreement, contract of service or otherwise an employee is entitled to benefits in respect of any matters which are more favourable to him than those to which he will be entitled to under this Act, the employee shall continue to be entitled to the more favourable benefits in respect of that matter notwithstanding that he receives benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed as precluding any employee from entering into an agreement with an employer for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Act.

41. *Power to exempt.*—The State Government may, by notification in the Official Gazette, exempt, subject to such conditions and restrictions as it may impose, any class of industrial premises or class of employers or employees from all or any of the provisions of this Act or of any rules made thereunder :

Provided that nothing in this section shall be construed as empowering the State Government to grant any exemption in respect or any woman employee from any of the provisions of this Act or any rules made thereunder relating to annual leave with wages, maternity benefits, creches, wages, rejection of beedi or cigar and night work.

42. *Powers of Central Government to give directions.*—The Central Government may give directions to a State Government as to the carrying into execution of the provisions of this Act.

43. *Act not to apply to self-employed persons in private dwelling houses.*—Nothing contained in this Act shall apply to the owner or occupier of a private dwelling house who carries on any manufacturing process in such private dwelling house with the assistance of the members of his family living with him in such dwelling house and dependent on him :

Provided that the owner or occupier thereof is not an employee of an employer to whom this Act applies.

Explanation.—For the purposes of this section, "family" means the spouse and children of the owner or occupier.

44. *Power to make rules.*—(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the terms and conditions subject to which a licence may be granted or renewed under this Act and the fees to be paid in respect of such licence ;

(*b*) the form of application for a licence under this Act and the documents and plans to be submitted together with such application ;

(*c*) other matters which are to be taken into consideration by the competent authority for granting or refusing a licence ;

(*d*) the time within which, the fees on payment of which and the authority to which, appeals may be preferred against any order granting or refusing to grant a licence ;

(*e*) the submission of a monthly return by an employer to the competent authority specifying the quantity of tobacco released by the Central Excise Department and the number of beedi or cigar or both manufactured by him ;

(*f*) the powers which may be conferred on the Inspectors under this Act ;

(*g*) the standards of cleanliness required to be maintained under this Act ;

(*h*) the standards of lighting, ventilation and temperature required to be maintained under this Act ;

(*i*) the types of urinals and latrines required to be provided under this Act ;

(*j*) the washing facilities which are to be provided under this Act ;

(*k*) canteens ;

(*l*) the form and manner of notice regarding the periods of work ;

(*m*) the form in which records of work done outside an establishment shall be maintained ;

(*n*) the authority to which and the time within which an appeal may be filed by a dismissed, discharged or retrenched employee ;

(*o*) the manner in which the cash equivalent of the advantage accruing through the concessional sale to an employee of foodgrains and other articles shall be computed ;

(*p*) the records and registers that shall be maintained in an establishment for the purpose of securing compliance with the provisions of this Act and the rules made thereunder ;

(*q*) the maintenance of first aid boxes or cupboards and the contents thereof and the persons in whose charge such boxes shall be placed ;

(*r*) the manner in which sorting or rejection of beedi or cigar or both and disposal of rejected beedi or cigar or both shall be carried out ;

(*s*) the fixation of maximum limit of the percentage of rejection of beedi or cigar or both manufactured by an employee ;

(*t*) specifying the place at which wages shall be paid to persons who receive directly or through an agent raw-materials for the manufacture of beedi or cigar or both at home ;

(*u*) supervision by the Inspectors over distribution of raw-materials including beedi and tobacco leaves to the employees ;

(*v*) precautions to be taken against fire for the safety of workers ;

(*w*) authority by which and the manner in which a dispute as to the issue of raw-materials shall be settled and the authority to which an appeal shall lie from the settlement made by the first-mentioned authority ;

(*x*) any matter which is required to be, or may be, prescribed.

(3) All rules made under this Act shall be published in the Official Gazette and shall be subject to the condition of previous publication ; and the dates to be specified under clause (3) of section 23 of the General Clauses Act, 1897 (10 of 1897), shall not be less than three months from the date on which draft of the proposed rules was published.

STATEMENT OF OBJECTS AND REASONS

The working conditions prevailing in the beedi and cigar establishments are unsatisfactory. Though at present the Factories Act, 1948 applies to such establishments, there has been a tendency on the part of employers to split their concerns into smaller units and thus escap from the provisions of the said Act. A special feature of the industry is the manufacture of beedies through contractors and by distributing work in the private dwelling houses where the workers take the raw materials given by the employers or the contractors. Employer-employee relationship not being well defined the application of the Factories Act has met with difficulties. The labour is unorganised and not able to look after its interests.

2. One or two State Governments passed special Acts to regulate the conditions of work of these workers but found themselves unable to enforce the law owing to the fact that the industry is highly mobile and tended to move on to an area where no such restrictive laws prevailed. It became necessary therefore to have Central legislation on the subject. The Bill seeks to provide for the regulation of the contract system of work, licensing of beedi and cigar industrial premises and matters like health, hours of work, spread-over, rest periods, overtime, annual leave with pay, distribution of raw-materials, etc.

3. The main provisions of the Bill have been explained in the notes on clauses.

D. SANJIVAYYA,

NEW DELHI,

The 9th December, 1965.

Notes on clauses

Clause 2.—This clause defines the various terms occurring in the Bill.

Clause 3.—This clause prohibits use of any place or premises as industrial premises without a licence.

Clause 4.—This clause provides for licensing of industrial premises and the matters to be taken into account in granting or refusing a licence.

Clause 5.—This clause provides for appeals where the grant or renewal of a licence has been refused or a licence has been cancelled or suspended.

Clause 6.—This clause provides for the appointment of Inspectors for the purposes of the Bill.

Clause 7.—This clause empowers Inspectors to carry inspection, enter premises, etc., to ensure compliance with the provisions of the law.

Clauses 8 *to* 16.—These clauses make provision for cleanliness, ventilation, prevention of overcrowding, drinking water, latrines and urinals, washing facilities, creches, first aid and canteens in industrial premises.

Clause 17.—Under this clause daily and weekly hours of work have been fixed.

Clause 18.—This clause provides for payment of wages at twice the rate of the ordinary rate of wages for overtime work.

Clause 19.—This clause provides for interval for rest of half an hour after five hours of work.

Clause 20.—This clause provides that the daily hours of work shall not spread over more than ten and a half hours, which, with the permission of the Chief Inspector can be increased to 12 hours.

Clause 21.—This clause provides for a paid weekly holiday for every employee in an industrial premises, which is to remain entirely closed on one day in the week except for wetting of beedi or tobacco leaves; for such work the employees will be given a substituted holiday on one of the three days immediately before or after the said day.

Clause 22.—This clause requires a notice of periods of work to be displayed in every industrial premises and copies of notice being sent to Inspector. Any change in the notice is to be notified to the Inspector.

Clause 23.—This clause provides that th eemployees shall be employed in accordance with the notice of work.

Clause 24.—This clause prohibits employment of children in any industrial premises.

Clause 25.—This clause prohibits employment of women and young persons between 7 P.M. and 6 A.M.

Clause 26.—This clause provides for the grant of annual leave with wages—

(i) in the case of an adult at the rate of one day for every twenty days of work performed by him ;

(ii) in the case of a young person at the rate of one day for every fifteen days of work performed by him.

Any employee who is discharged or dismissed or quits employment shall be entitled to leave. If the services of any employee are terminated he is to be paid wages in respect of leave not taken.

Clause 27.—This clause provides for wages during leave being paid at the rate equal to the daily average of the total full time earnings during the month.

Clause 28.—This clause empowers the State Governments to apply the Payment of Wages Act, 1936 or any of its provisions to any establishment or class of establishment.

Clause 29.—This clause empowers State Governments to permit wetting or cutting of beedi or tobacco leaves outside the industrial premises and for maintenance of records of the work permitted by the employer.

Clause 30.—This clause provides that the onus as to age shall be on the accused, the certificate of the medical officer being admissible as evidence of age of the employee concerned.

Clause 31.—This clause provides for the giving of notice to an employee employed for not less than six months, one month's notice or wages in lieu thereof before his services can be dispensed with except on the ground of misconduct. There is a provision for appeal against the discharge or dismissal of an employee.

Clause 32.—This clause provides a penalty of imprisonment up to three months or a fine up to rupees five hundred or both for obstructing an Inspector in the discharge of his duties.

Clause 33.—This clause provides for a general penalty of fine up to rupees two hundred and fifty for the first offence and of imprisonment of not less than one month and not more than six months, or

fine of not less than one hundred rupees and not more than five hundred rupees or both for a second or a subsequent offence under the Bill or any rule made thereunder.

Clause 34.—This clause makes offences by companies cognizable.

Clause 35.—This clause gives protection for anything done in good faith.

Clause 36.—This clause provides for prosecutions being made with the sanction of the Chief Inspector or an Inspector.

Clause 37.—This clause relates to the application of the Industrial Employment (Standing Orders) Act, 1946 to certain industrial premises and of the Maternity Benefit Act, 1961, to every establishment.

Clause 38.—This clause provides that Chapter IV and Section 85 of the Factories Act, 1948 shall apply to industrial premises.

Clause 39.—This clause makes the Industrial Disputes Act, 1947 applicable to matters arising in respect of every industrial premises and provides for the settlement of disputes regarding the issue of raw materials, rejection of beedis, etc., by such authority and in such summary manner as the State Goverment may by rules specify in this behalf.

Clause 40.—This clause ensures that where an employee is entitled to benefits which are more favourable than those provided for in the Bill he shall continue to enjoy those benefits.

Clause 41.—This clause provides for exemption from the provisions of the Bill in certain cases.

Clause 42.—This clause gives powers to the Central Government to give directions to the State Governments.

Clause 43.—This clause clarifies that the self-employed workers are exempted from the provisions of this Act.

Clause 44.—This clause confers rule making powers on the State Governments to carry out the purposes of the Bill.

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for the appointment of Inspectors by State Governments for the purposes of the Bill. In the case of the Union territories the existing staff will be employed to the extent possible in connection with the enforcement of the Bill. Still it may be necessary to engage new staff, from time to time, depending upon the volume of work. This is expected to involve an expenditure of a sum, not exceeding Rs. 10,000, per annum from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 44 of the Bill empowers the State Governments to make rules for carrying out the purposes of the Bill. The matters in respect of which rules may be made relate, *inter alia*, to the terms and conditions subject to which a licence may be granted or renewed, the fees to be paid for licence, submission of monthly return regarding quantity of tobacco released by the Central Excise Department, time within which appeals under the Act are to be prefered, records and registers to be maintained by employers, maintenance of first aid boxes, manner in which the sorting or rejection of beedies or cigars or both and disposal or rejected beedies shall be carried out, supervision by Inspector over distribution of raw-materials.

2. These matters pertain to procedure, form or detail and as such the delegation of legislative power is of a normal character

B. N. BANERJEE,

Secretary.

PART IV

Section 1-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON

GOVERNMENT OF MYSORE

NOTIFICATION

LAW DEPARTMENT

No. LAW 122 LCA 65, Bangalore, dated 25th February/ 4th March 1966.

Ordered that the Motor Vehicles (Amendment) Bill, 1965, (Central Bill No. XIX of 1965 of Rajya Sabha), which has been published in the *Gazette of India*, Extraordinary, Part II, Section 2, dated the 11th December 1965, be republished in the *Mysore Gazette*, for general information.

By Order and in the name of the Governor of Mysore,

H. K. ANANTHASUBBA RAO,
Under Secretary to Government,
Law Department.

II

Bill No. XIX of 1965

A bill further to amend the Motor Vehicles Act, 1939.

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Motor Vehicles (Amendment) Act, 1965.

(2) It shall come into force on such date as the Central Government may, by Notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

2. *Amendment of section* 2.—In Section 2 of the Motor Vehicles Act, 1939 (4 of 1939), (hereinafter referred to as the principal Act),—

(*a*) in clause (3), for the words "fixed or agreed rate or sum and from one point to another without stopping to pick up", the following words, brackets and figures shall be substituted, namely :—

"fixed or agreed rate or sum—

(*i*) on a time basis whether or not with reference to any route or distance, or

(*ii*) from one point to another, and in either case without stopping to pick up" :

(*b*) in clause (9), for the figures "8,200", the figures "11,000" shall be substituted ;

(*c*) in clause (13), for the figures "3,000", the figures "4,000" shall be substituted ;

(d) in clause (17), for the figures "500", the figures "600" shall be substituted ;

(*e*) after clause (29), the following clause shall be inserted, namely :—

'(29-A) "tourist vehicle" means a contract carriage constructed or adopted and equipped and maintained in accordance with such specifications as the State Government may, by Notification in the Official Gazette, specify in this behalf ;'.

3. *Amendment of section* 3.—In Section 3 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely :—

"(3) Notwithstanding anything contained in sub-section (1), a person who holds an effective driving licence authorising him to drive a motor car may drive any motor cab hired by him for his own use".

4. *Amendment of section* 7.—In Section 7 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) Any person who is not disqualified under section 4 for driving a motor vehisle and who is not for the time being disqualified for holding or obtaining a driving licence may apply to the licensing authority having jurisdiction in the area—

(*i*) in which he ordinarily resides or carries on business, or

(*ii*) in which the school or establishment where he is receiving

or has received instruction in driving a motor vehicle is situate, or

(*iii*) if the application is for a driving licence to drive as a paid employee, in which the employer resides or carries on business,

for the issue to him of a driving licence'.

5. *Amendment of section* 11.—In Section 11 of the principal Act,—

(*a*) in sub-section (1), after the proviso, the following further proviso shall be added, namely :—

"Provided further that where the application is for the renewal of a driving licence, to drive as a paid employee or to drive a transport vehicle or where in any other case the original licence was issued on production of a medical certificate, the same shall be accompained by a fresh medical certificate in Form C as set forth in the First Schedule, signed by a registered medical practitioner, and the provisions of sub-section (5) of Section 7 shall apply to every such case.";

(*b*) after sub-section (3*A*), the following sub-section shall be inserted, namely :—

"(3-*B*) When the authority to whom an application for the renewal of a driving licence to drive as a paid employee or to drive a transport vehicle is made, is not the authority which issued the licence sought to be renewed, it may, for the purpose of deciding whether the application for such renewal may be granted, verify the antecedents of the applicant in such manner as may be prescribed and pending the verification, such authority may grant a provisional licence for such period or periods not exceeding one year in the aggregate, subject to the condition that every such provisional licence shall cease to be effective immediately on the renewal of the licence sought to be renewed, or, as the case may be, on the refusal to renew the licence, and

(*i*) where the application for renewal has been rejected, the fee paid shall be refunded to such extent and in such manner as may be prescribed,

(*ii*) where the application for renewal has not been rejected within the said period, the licence shall be renewed.".

6. *Amendment of section* 15.—In Section 15 of the principal Act,—

(*a*) in sub-section (1), for the words "a driving licence", the words "any driving licence or a driving licence to drive a particular class or description of vehicle" shall be substituted;

(*b*) to sub-section (2), the following provisio shall be added, namely :—

"Provided that where the driving licence of a person authorises him to drive more than one class or description of motor vehicles and the order disqualifies him from driving any specified class or description of motor vehicles, the licensing authority shall endorse the disqualification upon the driving licence and return the same to the holder.".

7. *Amendment of section* 16.—In Section 16 of the principal Act, in sub-section (1), for the words "a transport vehicle", the words "any transport vehicle or a transport vehicle of a particular class or description" shall be substituted.

8. *Amendment of section* 18.—In Section 18 of the principal Act, after the words "cease to be effective", the words "to such extent and" shall be inserted.

9. *Amendment of section* 21.—In Section 21 of the principal Act, in sub-section (2),—

(*a*) for clause (*aa*), the following clause shall be substituted, namely :—

"(*aa*) the minimum qualifications of persons to whom licences to drive transport vehicles are issued, the time within which such qualifications are to be acquired by persons holding immediately before the commencement of the Motor Vehicles (Amendment) Act, 1965, licences to drive transport vehicles and the duties, functions and conduct of such persons;"

(*b*) in clause (*dd*), for the words "stage carriages or contract carriages", the words "transport vehicles" shall be substituted;

(*c*) in clause (*i*), after the words "for the instruction of drivers of motor vehicles", the brackets and words "(including the registration of such schools or establishments and the fee to be paid in respect thereof)" shall be inserted.

10. *Amendment of section* 25.—In Section 25 of the principal Act, to sub-section (2), the following proviso shall be added namely :—

"Provided that where a motor vehicle so registered is a chassis to which a body has not been attached and the same is detained in a workshop beyond the said period of one month for being fitted with a body, the period may, on payment of such fees, if any, as may be prescribed, be extended by such further period or periods not exceeding two months in the aggregate."

11. *Amendment of section* 27.—In Section 27 of the principal Act, after the words " particulars of any previous registration of the vehicle ", the words " or furnishes inaccurate particulars in the application for registration of such vehicle " shall be inserted.

12. *Omission of section* 29-*A*.—Section 29-A of the principal Act shall be omitted.

13. *Insertion of new section* 31-*A*.—In the principal Act, after Section 31, the following Section shall be inserted, namely :—

Special provisions regarding motor vehicles subject to hire-purchase or hypothecation agreement.—" 31A. (1) Where an application for registration of a motor vehicle which is held under a hire-purchase agreement is made, the registering authority shall make an entry in the certificate of registration regarding the existence of the said agreement.

(2) Where any registered owner of a motor vehicle enters into a hire-purchase agreement and reports the transfer of ownership of the motor car to the registering authority and makes an application to it to have the existence of the hire-purchase agreement entered in the certificate, the registering authority shall make an entry to that effect in the certificate of registration.

(3) Any entry made under sub-section (1) or sub-section (2), may be cancelled by the registering authority on proof of the termination of the hire-purchase agreement.

(4) No entry regarding the tranfer of ownership of any motor vehicle which is held under a hire-purchase agreement shall be made in the certificate of registration except with the written consent of the person with whom the registered owner has entered into a hire-purchase agreement.

(5) Where any person with whom the registered owner has entered into a hire-purchase agreement satisfies the registering authority that he has taken possession of the vehicle owing to the default of the registered owner under the provisions of the agreement and that the registered owner refuses to deliver the certificate of registration or has absconded, such authority may, after giving the registered owner an opportunity to make such representation as he may wish to make (by sending to him a notice by registered post acknowledgement due at his address entered in the certificate of registration) and notwithstanding that the certificate of registration is not produced before it, cancel the certificate and issue a duplicate thereof to the person aforesaid.

(6) The provisions of sub-sections (1) to (5) shall, so far as may be, apply to a motor vehicle which is subject to hypothecation as they apply to any motor vehicle which is held under a hire-purchase agreement".

14. *Amendment of section* 36.—In Section 36 of the principal Act, sub-section (3), for the words "excess of that", the words "different from that" shall be substituted.

15. *Amendment of section* 38.—In Section 38 of the principal Act, to sub-section (2), the following proviso shall be added namely :—

'Provided that this sub-section shall, in respect of a certificate of fitness relating to a new transport vehicle registered for the first time and not plying in hilly areas, have effect as if for the words "six months", the words "one year" were substituted.

Explanation.—In this sub-section, the expression "hilly areas" means such areas as the State Government may, having regard to the elevation and topography, by notification in the Official Gazette, declare to be hilly areas'.

16. *Amendment of section* 41.—In Section 41 of the principal Act, in sub-section (2),—

(*a*) in clause (*e*), for the brackets and figure "(3)", the brackets and figure "(2)" shall be substituted ;

(*b*) in clause (*f*), after the words "alteration of certificates of registration,", the words "for making or cancelling an endorsement in respect of an agreement of hire-purchase or hypothecation on a certificate of registration", shall be inserted.

17. *Amendment of section* 42.—In Section 42 of the principal Act,—

(*a*) in sub-section (1), after the words "any public place", the brackets and words "(whether or not such vehicle is actually carrying any passenger or goods)" shall be inserted;

(*b*) in sub-section (3),—

(i) clause (*ee*) shall be omitted;

(ii) after clause (*f*), the following clause shall be inserted, namely:—

"(*ff*) to any transport vehicle used by a person who manufactures or deals in motor vehicles or builds bodies for attachment to chassis, solely for such purposes and in accordance with such conditions as the Central Government may, by notification in the Official Gazette, specify in this behalf;"

(iii) in clause (*h*), the word "or" shall be omitted;

(iv) in clause (*i*), the words "except as may otherwise be prescribed" shall be omitted;

(*v*) after clause (*i*), the following clauses shall be inserted, namely:—

"(*j*) Subject to such conditions as the Central Government may, by order published in the Official Gazette, specify, to any transport vehicle purchased in one State and proceeding to a place, situated in any other State, without carrying any passenger or goods;

(*k*) to any transport vehicle (including a chassis to which a body has not been attached) which has been temporarily registered under Section 25, while proceeding empty to any place for the purpose of registration of the vehicle under Section 24; or

(*l*) to any transport vehicle used for such purposes (other than plying for hire or reward) as the Central Government may, by notification in the Official Gazette specify."

18. *Amendment of section* 49. In Section 43 of the principal Act, in sub-section (1), in clause (*i*), for the words "the fixing of fares and freights", the words and brackets "the fixing of fares and freights (including the maximum and minimum in respect thereof)" shall be substituted.

19. *Amendment of section* 44.—In Section 44 of the principal Act, in sub-section (2),—

(*a*) for the words "and such other officials and non-officials, not being less than two,", the words "and, in the case of a State Transport Authority, such other officials and non-officials, not being less than two, and, in the case of a Regional Transport Authority, such other persons (whether officials or not), not being less than two", shall be substituted;

(*b*) for the words "Provided that", the following shall be substituted, namely :—

"Provided that the State Government may—

(i) where it considers necessary or expedient so to do, constitute Regional Transport Authority for any region so as to consist of only one member who shall be an official with or without judicial experience;

(ii) by rules made in this behalf, provide for the transaction of business in the absence of the Chairman or any other member and specify the nature of business which, the circumstances under which, and the manner in which, business could be so transacted:

Provided further that".

20. *Amendment of section* 45.—Section 45 of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely :—

"(2) Notwithstanding anything contained in sub-section (1) the State Government may, by Notification in the Official Gazette, direct that in the case of any vehicle or vehicles proposed to be used in two or more regions lying in different States, the application under that sub-section shall be made to the State Transport Authority of the region in which the applicant resides or has his principal place of business.

(3) Every applicant for the grant of a new permit under Section 46 or Section 54 shall deposit, by way of security, with his application an amount in such manner and at such rate not exceeding rupees five thousand per motor vehicle, as the State Government may, with reference to each class or vehicle by Notification in the Official Gazette, specify.

(4) The security furnished under sub-section (3) may be forfeited in whole or in part by the transport authority if it is satisfied that the application was made for the purpose of preventing the

issue of a temporary permit under Section 62 and the whole or part of it has not been forfeited shall be refunded to the applicant, as soon as may be, after the disposal of the application :

Provided that no such forfeiture shall be made unless the transport authority has given the applicant a reasonable opportunity of being heard."

21. *Amendment of section* 46. In Section 46 of the principal Act, in clause (*c*),—

(*a*) for the word "services", wherever it occurs, the word "trips" shall be substituted ;

(*b*) the following *Explanation* shall be added at the end, namely :—

'*Explanation.*—For the purposes of this Section, Section 48 and Section 57, "trip" means a single journey from one point to another, and every return journey shall be deemed to be a separate trip ;'.

22. *Amendment of section* 48.—In Section 48 of the principal Act,—

(*a*) sub-section (2) shall be omitted ;

(*b*) in sub-section (3).—

(i) for clause (i), the following clauses shall be substituted, namely :—

"(i) that the vehicle or vehicles shall be used only in a specified area, or on a specified route or routes ;

(*ia*) that the service or any specified part thereof shall commenced with effect from a specified date ;";

(ii) in clause (*ii*), for the words "services to be maintained", the words "trips to be provided" shall be substituted ;

(*iii*) to clause (*xxi*), the following proviso shall be added, namely :—

"Provided that the conditions specified in pursuance of clause (*i*) shall not be varied so as to alter the distance covered by the original route by more than 24 kilomatres, and any variation within such limits shall be made only after the Regional Transport Authority is satisfied that such variation will serve the public convenience and that it is not expedient to grant a separate permit in respect of the originnl route as so varied or any part thereof ;".

23. *Amendment of section* 51.—In Section 51 of the principal Act, in sub-section (2), after clause (ii), the following clause shall be inserted, namely :—

" (*iia*) the maximum number of passengers and the maximum weight of luggage that may be carried on any specified vehicle or on any vehicle of a specified type, either generally or on specified occasions or at specified times and seasons ;".

24. *Amendment of section* 57.—In Section 57 of the principal Act, in sub-section (8), for the words " number of services above the specified maximum ", the words " number of trips above the specified maximum or by altering the route covered by it " shall be substituted.

25. *Amendment of section* 58.—In Section 58 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely :—

"(4) Where a permit has been renewed under this section after the expiry of the period thereof, such renewal shall have effect from the date of such expiry irrespective of whether or not a temporary permit has been granted under clause (*d*) of Section 62, and where a temporary permit has been granted, the fee paid in respect of such temporary permit shall be refunded.".

26.—*Amendment of section* 59.—In Section 59 of the principal Act,—

(*a*) in sub-section (2), for the words " replace by another vehicle of the same nature and capacity any vehicle covered by the permit ", the words " replace any vehicle covered by the permit by any other vehicle of the same nature " shall be substituted ;

(*b*) in sub-section (3),—

(*i*) in clause (a), for the words " permit relates ", the words and figures " permit relates carry valid certificates of fitness issued under Section 38 and " shall be substituted ;

(*ii*) in clause (c), the words " maximum or minimum " shall be omitted ;

(*iii*) in clause (d), for the word and figures " Section 72 ", the words and figures " Section 5 or Section 72 " shall be substituted.

27.—*Amendment of section* 60.—In Section 60 of the principal Act,—

(*a*) after sub-section (1-A), the following sub-section shall be inserted, namely :—

"(1*B*) The transport authority may exercise the powers conferred on it under sub-sections (1) and (1*A*) in relation to a permit granted by any authority or person to whom power in this behalf has been delegated under sub-section (5) of Section 44 as if the said permit was a permit granted by the transport authority.";

(*b*) after sub-section (2), the following sub-section shall be inserted, namely :—

"(2*A*) The powers exerciseable under sub-section (1) or sub-section (1*A*) (other than the power to cancel a permit by the transport authority which granted the permit may be exercised by any authority or person to whom such powers have been delegated under sub-section (5) of section 44.

Provided that—

(*i*) no such authority or person shall pass an order suspending the permit for a period exceeding one month or reducing the period thereof by more than one month ; and

(*ii*) any such order shall be placed within the said period of one month before the transport authority who may vacate the order or extend the said period of one month where it has not expired or cancel the permit or take action under sub-section (3), as it may deem fit.";

(*c*) after sub-section (3), the following sub-section shall be inserted, namely :—

"(4) The powers exercisable by the transport authority under sub-section (3) may, where an appeal has been preferred under Section 64, be exercised also by the appellate authority.".

28. *Amendment of section* 62.—Section 62 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely :—

"(2) Notwithstanding anything contained in sub-section (1), a temporary permit may be granted thereunder in respect of any route or area where—

(*i*) no permit could be issued under Section 48 or Section 51 or Section 54 in respect of that route or area by reason

of an order of a court or other competent authority restraining the issue of the same, for a period not exceeding the period for which the issue of the permit has been so restrained ; or

(*ii*) as a result of the suspension by a court or other competent authority of the permit of any vehicle in respect of that route or area, there is no transport vehicle of the same class with a valid permit in respect of that route or area, or there is no adequate number of such vehicles in respect of that route or area, for a period not exceeding the period of such suspension :

Provided that the number of transport vehicles in respect of which the temporary permit is so granted shall not exceed the number of vehicles in respect of which the issue of a permit has been restrained or as the case may be, the permit has been suspended.".

29. *Amendment of section* 63.—In Section 63 of the principal Act,—

(*a*) to sub-section (1), the following further proviso shall be added, namely :—

"Provided further that where both the starting point and the terminal point of a route are situate within the same State, but part of such route lies in any other State and the length of such part does not exceed sixteen kilometres, the permit shall be valid in the other State in respect of that part of the route which is in that other State notwithstanding that such permit has not been countersigned by the State Transport Authority or the Regional Transport Authority of that other State." ;

(*b*) after sub-section (1), the following sub-section shall be inserted, namely :—

"(1-A) Notwithstanding anything contained in sub-section (1), a permit granted or countersigned by a State Transport Authority shall be valid in the whole State or in such regions within the State as may be specified in the permit." ;

(*c*) in the proviso to sub-section (3), after the words "arrived at between the States", the following shall be inserted, namely :—

"after complying with the requirements of sub-section (3A), or for the grant of counter-signatures of permits in pursuance of any direction issued by the Commission under clause (*c*) of sub-section (2) of Section 63-A";

(*d*) after sub-section (3), the following sub-sections shall be inserted, namely :—

"(3-A) Every proposal to enter into an agreement between the States referred to in the proviso to sub-section (3) and every proposal in such agreement to fix the number of permits which is proposed to be granted or counter-signed in respect of each route or area, shall be published by each of the State Governments concerned in the Official Gazette together with a notice of the date before which representations in connection therewith may be submitted, and the date, not being less than thirty days from the date of such publication, on which, and the authority by which, and the time and place at which, the proposal and any representations received in connection therewith will be considered :

Provided that no person, association or authority, other than those mentioned hereunder, shall have a right to make such representation, namely :—

(*i*) any person already providing passenger or goods transport facilities by any means in the proposed area or along or near the proposed route ;

(*ii*) any association representing persons interested in the provision of road transport facilities recognised in this behalf by the State Government ;

(*iii*) any local authority or police authority within whose jurisdiction any part of the proposed area or route lies.

(3-*B*) Every agreement arrived at between the States shall, in so far as it relates to the grant of counter-signature of permits, be published in the Official Gazette by each of the States concerned and the State Transport Authority of the State and the Regional Transport Authority concerned shall give effect to it ";

(*e*) after sub-section (6), the following sub-sections shall be inserted, namely :—

"(7) Notwithstanding anything contained in sub-section (1) but subject to any rules that may be made under this Act, any State Transport Authority may, for the purpose of promoting tourism, grant in respect of tourist vehicles such number of permits valid for the whole or any part of India as the Central Government may, in respect of that State, specify in this behalf, and the

provisions of Sections 49, 50, 51, 57, 58, 59, 59-A, 60, 61 and 64 shall, as far as may be, apply in relation to such permits.

(8) Every applicant for a permit under sub-section (7) shall deposit, by way of security, in such manner and such amount, not exceeding rupees five thousand per motor vehicle, as the Central Government may with reference to each class of vehicle, by Notification in the Official Gazette, specify, and such security shall be refunded wholly or in part to the applicant if his application for permit has not been granted, or, as the case may be, granted for a lesser number of vehicles than what was applied for.

(9) Any amount deposited by way of security under sub-section (8) may, at any time, be forfeited in whole or in part by the State Transport Authority if it is satisfied after making such inquiry as it thinks fit that—

(*a*) the permit was obtained by fraud or misrepresentation, or

(*b*) the holder of the permit has failed without reasonable cause to use the vehicle or vehicles for the purpose for which the permit was granted, or

(*c*) the holder of the permit has committed a breach of any condition of the permit, or

(*d*) the holder of the permit has used or caused it to be used in any manner not authorised by the permit:

Provided that no such forfeiture shall be made unless the State Transport Authority has given the permit-holder reasonable opportunity of being heard.

(10) The following shall be conditions of every permit granted under sub-section (7), namely:—

(*i*) every motor vehicle in respect of which such permit is granted shall conform to such description, requirement regarding the seating capacity, standards of comforts, amenities and other matters, as the Central Government may specify in this behalf;

(*ii*) every such motor vehicle shall be driven by a person having such qualifications and satisfying such conditions as may be specified by the Central Government; and

(*iii*) such other conditions as may be prescribed by the Central Government.".

30. *Amendment of section* 63-*A*.—In Section 63-A of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely :—

"(2*A*) If any direction issued by the State Government under Section 43 is repugnant to any direction made by the Commission under clause (c) of sub-section (2), then, the direction of the Commission, whether issued before or after the direction issued by the State Government, shall prevail and the direction made by the State Government shall, to the extent of the repugnancy, be of no effect.".

After section 63B of the principal Act, the following section shall be inserted, namely :—

31. *Insertion of new section* 63*BB*.—

Appeal against decision, direction or order under section 63*A*.—

"63*BB*. (1) Any person or authority (including Government) aggrieved by the decision, direction or order of the Commission under clause (*b*) or clause (*c*) or clause (*d*) or clause (*e*) of sub-section (2) of Section 63A may, within thirty days from the date of the communication to him or it, of such decision, direction or order, as the case may be, appeal to the authority specified by the Central Government under clause (*h*) of Section 63C, which shall decide the appeal after giving the person or the authority an opportunity of being heard and pass such order thereon as it may deem fit and such order shall be final :

Provided that the authority aforesaid may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(2) Every appeal under sub-section (1) shall be preferred in such manner and accompained by such fee as may be prescribed by the Central Government.".

32. *Amendment of Section* 63*C*.—In Section 63C of the principal Act, for clause (*h*), the following clause shall be substituted, namely :—

"(*h*) the authority to which, the manner in which and the fees on payment of which, an appeal against any decision, direction or order of the Commission may be preferred ;".

33. *Amendment of Section* 64.—Section 64 of the principal Act shall be re-numbered as sub-section (1) thereof, and—

(*a*) in sub-section (1) as so re-numbered,—

(*i*) after clause (*h*), the following clause shall be inserted, namely :—

"(*hh*) aggrieved by an order or forfeiture passed under sub-section (4) of Section 45 or under sub-section (9) of Section 63, or" ;

(*ii*) for the words "the prescribed authority who shall give such person and the original authority an opportunity of being heard", the words, brackets and figure "the State Transport Appellate Tribunal constituted under sub-section (2), who shall, after giving such person and the original authority an opportunity of being heard, give a decision thereon which shall be final" shall be substituted ;

(b) after sub-section (1) as so re-numbered, the following sub-section and *Explanation* shall be inserted, namely :—

"(2) The State Government shall constitute for the State a State Transport Appellate Tribunal which shall consist of a whole-time judicial officer not below the rank of a District Judge :

Provided that in relation to a Union territory the Tribunal may consist of the Administrator of that territory or any officer who has judicial experience.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), every appeal pending at the commencement of the Motor Vehicles (Amendment) Act, 1965, shall be proceeded with and disposed of as if that Act had not been passed.

Explanation.—For the removal of doubts, it is hereby declared that when any order is made by the State Transport Authority or the Regional Transport Authority in pursuance of a direction issued by the Commission under clause (*c*) of sub-section (2) of section 63A and any person feels aggrieved by such order on the ground that it is not consonance with such direction, he may appeal under sub-section (1) to the State Transport Appellate

Tribunal against such order but not against the direction so issued."

34. *Amendment of section* 64A.—In section 64A of the principal Act,—

(*a*) for the words "State Transport Authority", wherever they occur, the words "State Transport Appellate Tribunal" shall be substituted;

(*b*) for the words "Regional Transport Authority", wherever they occur, the words "State Transport Authority or Regional Transport Authority" shall be substituted;

(*c*) after the words "as it deems fit", the words "and every such order shall be final" shall be inserted.

35. *Amendment of section* 65.—In Section 65 of the principal Act, in sub-section (1),—

(*a*) in clause (*b*), for the words "nine hours", the words "eight hours" shall be substituted;

(*b*) in clause (*c*), for the words "fifty-four hours", the words "forty-eight hours" shall be substituted.

36. *Insertion of new section* 66A.—After Section 66 of the principal Act, the following section shall be inserted, namely :—

Agent or canvasser to obtain licence.—"66A. (1) No person shall engage himself—

(i) as an agent or canvasser, in the sale of tickets for travel by public service vehicles or in otherwise soliciting custom for such vehicles, or

(ii) as an agent in the business of collecting, forwarding or distributing goods carried by public carriers,

unless he has obtained a licence from such authority and subject to such conditions as may be prescribed by the State Government.

(2) The conditions referred to in sub-section (1) may include all or any of the following matters, namely :—

(*a*) the period for which a licence may be granted or renewed;

(*b*) the fee payable for the issue or renewal of the licence;

(*c*) the deposit of security by the agent or canvasser and the circumstances under which it may be forfeited;

(*d*) the provision by the agent of insurance of goods in transit ;

(*e*) the authority by which and the circumstances under which the licence may be suspended or revoked ;

(*f*) such other conditions as may be prescribed by the State Government.".

37. *Amendment of section* 68.—In section 68 of the principal Act, in sub-section (2),—

(*a*) after clause (*a*), the following clause shall be inserted, namely :—

" (*aa*) the conduct of business by any such authority in the absence of any member (including the Chairman) thereof and the nature of business which, the circumstances under which and the manner in which, business could be so conducted ; " ;

(*b*) after clause (*c*), the following clause shall be inserted, namely :—

" (*cc*) the manner in which and the time within which every application for a stage carriage permit or a public carrier's permit shall be published, as required by sub-section (3) of section 57, and the circumstances under which and the fees on payment of which copies of such applications may be granted ; " ;

(*c*) in clause (*ww*), for the words " forwarding and distributing of ", the words " or forwarding and distributing " shall be substituted.

38. *Amendment of section* 68*A*.—In section 68A of the principal Act, in clause (*b*),—

(*a*) sub-clause (ii) shall be omitted ;

(*b*) in sub-clause (*iv*), for the words " the State Government ", the words " the Central Government or one or more State Governments, or by the Central Government and one or more State Governments " shall be substituted.

39. *Amendment of section* 68*D*.—In section 68D of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) On the publication of any scheme in the Official Gazette under section 68C,—

(*i*) any person already providing transport facilities by any means along or near the area or route proposed to be covered by the scheme ;

(*ii*) any association representing persons interested in the provision of road transport facilities recognised in this behalf by the State Government ; and

(*iii*) any local authority or police authority within whose jurisdiction any part of the area or route proposed to be covered by the scheme lies,

may, within thirty days from the date of such publication, file objections thereto before the State Government.".

40. *Amendment of section* 68*E*.—Section 68E of the principal Act shall be re-numbered as sub-section (1) thereof and—

(*i*) in sub-section (1) as so re-numbered, for the words "proposed to be modified as if the modification proposed were a separate scheme", the following shall be substituted, namely :—

" proposed to be cancelled or modified as if the proposal were a separate scheme :

Provided that the State Transport Undertaking may, with the previous approval of the State Government, modify without following the procedure laid down in section 68C and section 68D, any such scheme relating to any route or area in respect of which the road transport services are run and operated by the State Transport Undertaking to the complete exclusion of other persons in respect of the following matters, namely :—

(*a*) increase in the number of vehicles or the number of trips ;

(*b*) Change in the type of vehicles without reducing the seating capacity ;

(*c*) extension of the route or area, without reducing the frequency of the service or ;

(*d*) alteration of the time-table without reducing the frequency of the service." ;

(*ii*) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely :—

" (2) Notwithstanding anything contained in sub-section (1), the State Government may, at any time, if it considers necessary in

the public interest so to do, modify any scheme published under sub-section (3) of section 68D, after giving,—

(*i*) the State Transport Undertaking, and

(*ii*) any other person who, in the opinion of the State Government, is likely to be affected by the proposed modification,

an opportunity of being heard in respect of the proposed modification.".

41. *Amendment of section* 68*F*.—In section 68F of the principal Act,—

(*a*) in sub-section (1),—

(*i*) for the words and figures "in the manner specified in Chapter IV", the words "in such manner as may be prescribed by the State Government in this behalf" shall be substituted;

(ii) for the words "Regional Transport Authority", the words "State Transport Authority in any case where the said area or route lies in more than one region and the Regional Transport Authority in any other case" shall be substituted;

(*b*) in sub-section (2),—

(*i*) for the words "the Regional Transport Authority", the words "the State Transport Authority or as the case may be, the Regional Transport Authority concerned" shall be substituted;

(*ii*) in clause (*a*), for the words "the renewal of any other permit", the words "the grant of renewal of any other permit or reject any such application as may be pending" shall be substituted;

(*c*) in sub-section (3), for the words "the Regional Transport Authority", the words "the State Transport Authority or any Regional Transport Authority" shall be substituted;

42. *Insertion of new section* 68*FF*.—After section 68F of the principal Act, the following section shall be inserted, namely :—

Restriction on grant of permits in respect of a notified area or notified route.—"68FF. Where a scheme has been published under sub-section (3) of section 68D in respect of any notified area or notified route, the State Transport Authority or the

Regional Transport Authority, as the case may be, shall not grant any permit except in accordance with the provisions of the scheme;

Provided that where no application for a permit has been made by the State Transport Undertaking in respect of any notified area or notified route in pursuance of an approved scheme, the State Transport Authority or the Regional Transport Authority, as the case may be, may grant temporary permits to any person in respect of such notified area or notified route subject to the condition that such permit shall cease to be effective on the issue of a permit to the State Transport Undertaking in respect of that area or route.".

43. *Amendment of section* 68G.—In section 68G of the principal Act, in sub-section (2), for the words "the Regional Transport Authority", the words "the State Transport Authority or the Regional Transport Authority, as the case may be," shall be substituted.

44. *Insertion of new section* 68*HH*.—After section 68H of the principal Act, the following section shall be inserted, namely:—

Disposal of articles found in vehicles.—"68HH. Where any article found in any transport vehicle operated by the State Transport Undertaking is not claimed by its owner within the prescribed period, the State Transport Undertaking may sell the article in the prescribed manner and the sale proceeds thereof, after deducting the costs incidental to sale, shall be paid to the owner on demand."

45. *Amendment of section* 68*I*.—In section 68I of the principal Act, in sub-section (2), after clause (c), the folowing clauses shall be inserted, namely:—

"(*cc*) the manner in which application under sub-section (1) of section 68F may be made;

(*ccc*) the period within which the owner may claim an article found left in any transport vehicle under section 68HH and the manner of sale of such article;".

46. *Insertion of new section* 68*J*.—In Chapter IVA of the principal Act, after section 68I, the following section shall be inserted, namely:—

Certain powers of State Government exerciseable by the Central Government.—"68J. The powers conferred on the State Government under this Chapter shall, in relation to a corporation or

company owned or controlled by the Central Government or by the Central Government and one or more State Governments, be exerciscable only by the Central Government in relation to an inter-State route or area.".

47. *Insertion of new section* 69A.—After section 69 of the principal Act, the following section shall be inserted, namely:—

Vehicles to have right hand control.—"69A. Every motor vehicle shall be so constructed as to have right hand steering control unless it is equipped with a mechanical or electrical signalling device of a prescribed nature.".

48. *Amendment of section* 79.—Section 79 of the principal Act shall be re-numbered as sub-section (1) thereof and—

(*i*) in sub-section (1) as so re-numbered, after the words "driver of a motor vehicle", the words "with a right hand steering control" shall be inserted; and

(*ii*) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) In the case of a motor vehicle with a left hand steering control, the signal of an intention to turn to the right or left or to stop shall be given by a mechanical or an electrical device of a prescribed nature affixed to the vehicle:

Provided that the Central Government may, having regard to the width and the condition of the roads in any area or route, by notification in the Official Gazette, exempt, subject to such conditions as may be specified therein, any such motor vehicle or class of such motor vehicles from the operation of this sub-section for the purpose of plying in that area or route.".

49. *Amendment of section* 80.—To section 80 of the principal Act, the following proviso shall be added, namely:—

"Provided that the Central Government may, having regard to the width and condition of the roads in any area or route, by notification in the Official Gazette, exempt, subject to such conditions as may be specified therein, any such motor vehicle or class of such motor vehicles from the operation of this section for the purpose of plying in that area or route.".

50. *Amendment of section* 89.—In section 89 of the principal Act, after the words "When any person is injured", the words "or any property of a third party is damaged," shall be inserted.

51. *Amendment of section* 92.—In section 92 of the principal Act, in sub-section (1A), the words 'contiguous to it" shall be omitted.

52. *Amendment of section* 93.—In section 93 of the principal Act,—

(*i*) after clause (*b*), the following clause shall be inserted, namely :—

'(*bb*) " property " includes roads, bridges, culverts, causeways, trees, posts and mile-stones ;' ;

(*ii*) after clause (*c*), the following clause shall be inserted, namely :—

'(*d*) "third party" includes the Government.'.

53. *Amendment of section* 94.—In section 94 of the principal Act, in sub-section (3), for the *Explanation*, the following *Explanation* shall be substituted, namely :—

"*Explanation.*—For the purposes of this sub-section, appropriate Government means the Central Government or the State Government, as the case may be, and—

(*i*) in relation to any corporation or company owned by the Central Government or any State Government, means the Central Government or that State Government ;

(*ii*) in relation to any corporation or company owned by the Central Government and one or more State Governments means the Central Government ;

(*iii*) in relation to any other State Transport Undertaking or any local authority, means that Government which has control over that Undertaking or authority.".

54. *Amendment of section* 95.—In section 95 of the principal Act,—

(*a*) in sub- section (1),—

(i) for clause (b), the followingg clause shall be substituted, namely :—

"(b) *insures the person or classes of persons specified in the policy to the extent specified in sub-section* (2)—

(i) *against any liability which may be incurred by him in respect of the death of or bodily injury to any person or damage to any property of a third party caused by or arising out of the use of the vehicle in a public place* ;

(ii) *against the death of or bodily injury to any passenger of a public service vehicle caused by or arising out of the use of the vehicle in a public place, where there is no contributory negligence on the part of such passenger;*";

(*ii*) the following *Explanation* shall be added at the end, namely :—

"Explanation.—*For the removal of doubts, it is hereby declared that the death of or bodily injury to any person or damage to any property of a third party shall be deemed to have been caused by or to have arisen out of, the use of a vehicle in a public place notwithstanding that the person who is dead or injured or the property which is damaged was not in a public place at the time of the accident, if the act or omission which led to the accident occurred in a public place.*";

(*b*) in sub-section (2),—

(i) *in clause (a), for the word "twenty", the word "fifty" shall be substituted;*

(*ii*) for clauses (*b*) and (*c*), the following clauses shall be substituted namely :—

"(b) *where the vehicle is a vehicle in which passangers are carrier for hire or reward or by reason of or in pursuance of a contract of employment,—*

(i) *in respect of persons other than passengers carried for hire or reward, a limit of fifty thousand rupees in all;*

(ii) *in respect of passengers,—*

(1) *a limit of fifty thousand rupees in all where the vehicle is registered to carry not more than thirty passengers;*

(2) *a limit of seventy-five thousand rupees in all where the vehicle is registered to carry more than thirty but not more than sixty passengers;*

(3) *a limit of one lakh rupees in all where the vehicle is registered to carry more than sixty passengers; and*

(4) *subject to the limits aforesaid, ten thousand rupees for each individual passenger where the vehicle is a motor cab, and five thousand rupees for each individual passangers in any other case;*

(c) *save as provided in clause* (d), *where the vehicle is a vehicle of any other class, the amount of liability incurred;*

(d) *irrespective of the class of the vehicle, a limit of rupees two thousand in all in respect of damage to any property of a third party.*".

55. *Insertion of new section 95AA.*—After section 95A of the principal Act, the following section shall be inserted, namely :—

Security to be deposited by insurers.—"95AA. (1) In addition to the deposits required to be made under section 7 of the Insurance Act, 1938 (4 of 1938), every insurer who is competent to issue a policy of insurance in accordance with this Chapter, shall deposit and keep deposited with the Reserve Bank of India or the State Bank of India, a sum of rupees thirty thousand as security for the due discharge of any liability covered by a policy of insurance issued in accordance with the provisions of this Chapter.

(2) Any sum deposited under sub-section (1) shall be deemed to be part of the assets of the insurer but shall not be susceptible of any assignment or charge nor shall it be liable to any attachment in execution of any decree except for meeting the claims arising in respect of a policy of insurance issued after complying with the requirements of this Chapter.

(3) Where on an application made to it in this behalf, any Court or Claims Tribunal, which has made an award for compensation under this Act, is satisfied—

(*i*) that the applicant has exhausted all other remedies open to him to recover his dues from the insurer, or

(*ii*) that the award has been made after the insurer has gone into liquidation,

it may direct the payment of such compensation from out of the sum deposited under sub-section (1):

Provided that in the case of the insolvency of the insurer—

(*a*) such payment shall not be made until all claims under this Act against the insurer have been settled; and

(*b*) payment so made shall be proportionate to the amount of compensation allowed in each case.".

56. *Insertion of new section* 103A.—After section 103 of the principal Act, the following section shall be inserted, namely :—

Transfer of Certificate of insurance.—"103A. (1) Where a person in whose favour the certificate of insurance has been issued in accordance with the provisions of this Chapter proposes to transfer to another person the ownership of the motor vehicle in respect of which such insurance was taken together with the policy of insurance relating thereto, he may apply in the prescribed form to the insurer for the transfer of the certificate of insurance and the policy described in the certificate in favour of the person to whom the motor vehicle is proposed to be transferred, and if within seven days of the receipt of such application by the insurer, the insurer has not intimated the insured and such other person his refusal to transfer the certificate and the policy to the other person, the certificate of insurance and the policy described in the certificate shall be deemed to have been transferred in favour of the person to whom the motor vehicle is transferred with effect from the date of its transfer.

(2) The insurer to whom any application has been made under sub-section (1) may refuse to transfer to the other person the certificate of insurance and the policy described in that certificate if he consideres it necessary so to do, having regard to—

(*a*) the previous conduct of other person :—

(*i*) as a driver of motor vehicles ; or

(*ii*) as a holder of the policy of insurance in respect of any motor vehicle ; or

(*b*) any conditions which may have been imposed in relation to any such policy held by the applicant ; or

(*c*) the rejection of any proposal made by such other person for the issue of a policy of insurance in respect of any motor vehicle owned or possessed by him.".

57. *Amendment of section* 110.—In section 110 of the principal Act, in sub-section (1), for the words "motor vehicles", the following words shall be substituted, namely :—

" Motor vehicles, or damages to any property of a third party so arising or both :

Provided that where such claim includes a claim for compensation in respect of damage to property exceedingg rupees two thousand, the claimant may, at his option, refer the claim to a civil court for adjudication, and

where a reference is so made, the Claims Tribunal shall have no jurisdiction to entertain any question relating to such claim.

58. *Amendment of section* 110*A*.—In section 110A of the principal Act,—

(*a*) in sub-section (1),—

(*i*) in clause (b) for the words "by the legal representatives", the words " by all or any of the legal representatives " shall be suubstituted ;

(*ii*) in clause (c), for the words "or the legal representatives", the words " or all or any of the legal representatives " shall be substituetd ;

(*iii*) the following proviso shall be inserted at the end, namely :—

" Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application.";

(b) in sub-section (3), for the words "sixty days", wherever they occur, the words 'six months" shall be substituted.

59. *Insertion of new section* 110*AA*.—After section 110A of the principal Act, the following section shall be inserted, namely :—

Option regarding claims for compensation in certain cases.— '110AA. Notwithstanding anything contained in the Workmen's Compensation Act, 1923, (8 of 1923) where the death of or bodily injury to any person gives rise to a claim for compensation under this Act and also under the Workmen's Compensation Act, 1923, the person entitled to compensation may claim such compensation under either of those Acts but not under both ".

60. *Amendment of section* 110*B*.—In section 110B of the principal Act, after the words "the insurer.", the words "or owner or driver of the vehicle involved in the accident or by all or any of them, as the case may be." shall be inserted.

61. *Amendment of section* 110*C*.—In section 110C of the principal Act, after sub-section (2), the following sub-sections shall be inserted, namely :—

"(2A) Without prejudice to the provisions of any other law for the time being in force, where a person to whom a summons is

issued either to attend or to give evidence or to produce documents or material objects at a certain place and time, intentionally omits to attend or to give evidence or to produce the documents or material objects at the place or time, the Claims Tribunal may impose on him all or any of the following penalties, namely :—

(*i*) a fine not exceeding two thousand and five hundred rupees ;

(*ii*) where such person is the driver of the vehicle involved in the accident, suspension of his driving licence ;

(*iii*) where such person is the owner of such vehicle, suspension of the permit or registration certificate in relation to that vehicle.

(2-B) Where in the course of any inquiry, the Claims Tribunal is satisfied that—

(i) there is collusion between the person making the claim and the person against whom the claim is made, or

(ii) the person against whom the claim is made has failed to contest the claim,

it may, for reasons to be recorded in writing, direct that the insurer who may be liable in respect of such claim, shall be impleaded as a party to the proceeding and the insurer so impleaded shall thereupon have the right to contest the claim on all or any of the grounds that are available to the person against whom the claim has been made."

62. *Insertion of new Sections* 110-*CC and* 110-*CCC*.—After Section 110-C of the principal Act, the following sections shall be inserted, namely :—

"110-CC. *Award of interest where any claim is allowed*.—Where any Court or Claims Tribunal allows a claim for compensation made under this Chapter, such Court or Tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as it may specify in this behalf.

110-CCC. *Award of compensatory costs in certain cases*.—(1) Any Court or Claims Tribunal adjudicating upon any claim for compensation under this Act, may in any case where it is satisfied for reasons to be recorded in writing that—

(i) the policy of insurance is void on the ground that it was obtained by non-disclosure of a material fact or by representation of fact which was false in any material particular, or

(ii) any party or insurer has put forward a false or vexations claim or defence,

such Court or Tribunal may make an order for the payment, by the party who is guilty of non-disclosure or mis-representation or by whom such claim or defence has been put forward, or special costs by way of compensation to the insurer or, as the case may be, to the party against whom such claim or defence has been put forward.

(2) No Court or Claims Tribunal shall pass an order for special costs under sub-section (1) for any amount exceeding rupees one thousand.

(3) No person or insurer against whom an order has been made under this section shall, by reason thereof, be exempted from any criminal liability in respect of such non-disclosure, mis-representation, claim or defence as is referred to in sub-section (1).

(4) Any amount awarded by way of compensation under this section in respect of any non-disclosure, mis-representation, claim or defence, shall be taken into account in any subsequent suit for damages for compensation in respect of such non-disclosure, mis-representation, claim or defence."

63. *Amendment of Section* 110-*E*.—In Section 110-E of the principal Act, for the words "an insurer", the words "any person" shall be substituted.

64. *Amendment of Section* 111-*A*.—In Section 111-A of the principal Act, in clause (d), after the words "the manner in which", the words and brackets "and the fees (if any) on payment of which", shall be inserted.

65. *Insertion of new Section* 113-*A*.—After Section 113 of the principal Act, the following section shall be inserted, namely :—

"113-A. *Allowing unauthorised persons to drive vehicles*.—Whoever, being the owner or person in charge of a motor vehicle, causes or permits, any person who does not satisfy the provisions of Section 3 or Section 4, to drive the vehicle, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both."

66. *Amendment of Section* 115.—In Section 115 of the principal Act,—

(i) in sub-section (1), for the words "one hundred rupees", the following shall be substituted namely :—

"two hundred rupees, or, if having been previously convicted of an offence under this sub-section is again convicted of

an offence under this sub-section, with fine which may extend to five hundred rupees";

(ii) in sub-section (2), for the words "two hundred rupees", the following shall be substituted, namely :—

"three hundred rupees, or, if having been previously convicted of an offence under this sub-section is again convicted of an offence under this sub-section, with fine which may extend to five hundred rupees".

67. *Amendment of Section* 123.—In Section 123 of the principal Act, in sub-section (1), after the words "for which the vehicle may be used", the words "or to the maximum number of passengers and maximum weight of luggage that may be carried on the vehicle" shall be inserted.

68. *Insertion of new Section* 123-A.—After Section 123 of the principal Act, the following section shall be inserted, namely :—

"123-A.—*Punishment of agents and canvassers without proper authority*.—Whoever engages himself as an agent or canvasser in contravention of the provisions of Section 66-A or any rules made thereunder shall be punishable for a first offence with fine which may extend to one thousand rupees and for a subsequent offence, if committed within three years of the commission of a previous similar offence, with imprisonment which may extend to six months, or with fine may extend to two thousand rupees, or with both :

Provided that no court shall, except for reasons to be stated in writing, impose a fine of less than five hundred rupees for any such subsequent offence."

69. *Amendment of Section* 124.—In Section 124 of the principal Act, for the words and figures "Section 72 or of the conditions of any permit issued thereunder, or in contravention of any prohibition or restriction imposed under Section 74 shall be punishable", the words and figures "Section 72 or of the conditions prescribed under that section, or in contravention of any prohibition or restriction imposed under Section 72 or Section 74, shall be punishable" shall be substituted.

70. *Insertion of new Section* 127-AA.—After Section 127-A of the principal Act, the following section shall be inserted, namely :—

"127-AA.—*Minimum penalty for second or subsequent offence*.—Save as otherwise provided in this Act, where a person, who has committed an offence punishable with fine (whether with or without imprisonment), under any provision of this Act, is again convicted

of an offence involving the contravention of the same provision, the fine imposed, if any, for the second or subsequent offence committed within a period of three years from the date of the commission of the previous offence shall not be less than one-fourth of the maximum fine prescribed for the first offence."

71. *Amendment of Section* 129-A.—To Section 129-A of the principal Act, the following proviso shall be added, namely :—

"Provided that where any such officer or person has reason to believe that a motor vehicle has been or is being used without the permit required by sub-section (1) of Section 42, he may, instead of seizing the vehicle, seize the certificate of registration of the vehicle and issue an acknowledgment in respect thereof."

72. *Amendment of Section* 130.—In Section 130 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) The court taking cognizance of an offence under this Act,—

(i) may, if the offence is an offence punishable with imprisonment under this Act, and

(ii) shall, in any other case, state upon the summons to be served on the accused person that he—

(*a*) may appear by pleader and not in person, or

(*b*) may, by a specified date prior to the hearing of the charge, plead guilty to the charge by registered letter and remit to the court such sum (not exceeding the maximum fine that may be imposed for the offence) as the court may specify :—

Provided that nothing in this sub-section shall apply to any offence specified in Part A of the Fifth Schedule."

73. *Insertion of new Section* 131-A.—After Section 131 of the principal Act, the following section shall be inserted, namely :—

"131-A. *Courts to send intimations about conviction.*—Every court by which any person holding a driving licence is convicted of an offence under this Act or of an offence in the commission of which a motor vehicle was used, shall send intimation to—

(*a*) the licensing authority which issued the driving licence, and

(*b*) the licensing authority by whom the licence was last renewed,

and every such intimation shall state the name and address of the holder of the licence, the licence number, the date of issue and renewal of the same, the nature of the offence, the punishment awarded for the same and such other particulars as may be prescribed.".

74. *Insertion of new section* 132*A*.—In Chapter X of the principal Act, before section 133, the following section shall be inserted, namely :—

"132A.—*Power to levy fee.*—Any rule which the Central Government or the State Government is empowered to make under this Act may, notwithstanding the absence of any express provision to that effect, provide for the levy of such fees in respect of applications, amendment of documents, issue of certificates, licences, permits, tests, endorsements, badges, plates, counter-signatures, authorisation, supply of statistics or copies of documents or orders and for any other purpose or matter involving the rendering of any service by the officers or authorities under this Act or any rule made thereunder as may be considered necessary:

Provided that the Government may, if it considers necessary so to do, in the public interest, by general or special order, exempt any class of persons from the payment of any such fee either in part or in full.".

75. *Amendment of section* 133*A*.—In section 133A of the principal Act, after sub-section (3), the following sub-sections shall be inserted, namely :—

"(4) In addition to the powers that may be conferred on any officer of the Motor Vehicles Department under sub-section (3), such officer as may be empowered by the State Government in this behalf shall also have the power to,—

(*a*) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and the rules made thereunder are being observed ;

(*b*) with such assistance, if any, as he thinks fit, enter, inspect and search any premises which is in the occupation of a person who, he has reason to believe, has committed an offence under this Act or in which a motor vehicle in respect of which such offence has been committed is kept :—

Provided that—

(i) any such search without a warrant shall be made only by an officer of the rank of a gazetted officer;

(ii) where the offence is punishable with fine only the search shall not be made after sunset and before sunrise;

(iii) where the search is made without a warrant, the Gazetted officer concerned shall record in witing the grounds for not obtaining a warrant and report to his immediate superior that such search has been made

(*c*) examine any person and require the production of any register or other document maintained in pursuance of this Act, and take on the spot or otherwise statements of any person which he may consider necessary for carrying out the purpose of this Act;

(*d*) seize or take copies of any registers or documents or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed;

(*e*) to launch prosecutions in respect of any offence under this Act and to take a bond for ensuring the attendance of the offender before any court;

(*f*) exercise such other powers as may be prescribed:

Provided that no person shall be compelled under this sub-section to answer any question or make any statement tending to increminate himself.

(5) The provisions of the Code of Criminal Procedure, 1898 (5 of 1898) shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure under the authority of any warrant issued under section 98 of that Code.".

76. *Amendment of section* 134.—In section 134 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely :—

"(1*A*) Notwithstanding anything contained in sub-section (1), if an application made by a person for the renewal of permit has been rejected by the original authority and such person has preferred an appeal or made an application for revision under this Act against such rejection, the appellate authority or, as the case may be, the

revisional authority may by order direct that the permit shall, notwithstanding the expiration of the term specified therein, continue to be valid until the appeal or application for revision is disposed of.".

77. *Insertion of new section* 135.—After section 134 of the principal Act, the following section shall be inserted, namely :—

"135. *Repeal and savings.*—(1) The enactments specified in the Twelfth Schedule are hereby repealed to the extent mentioned therein.

(2) Notwithstanding the repeal of any enactment by this section,—

(a) any notification, rule, regulation, order or notice issued, or any appointment or declaration made, or any licence, permission or exemption granted, or any confiscation made, or any penalty or fine imposed, or any forfeiture, cancellation or discharge of any bond ordered, or any other thing done, or any other action taken under the repealed enactment, shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provision of this Act ;

(b) any document referring to any enactment hereby repealed, or to any provision thereof, shall be construed as referring to this Act or to the corresponding provision of this Act.

(3) Any penalty payable under any repealed enactment may be recovered in the manner provided by or under this Act but without prejudice to any action already taken for the recovery of such penalty under the repealed enactment.

(4) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 (10 of 1897), with regard to the effect of repeals.".

78. *Amendment of First Schedule.*—In the First Schedule to the principal Act,—

(a) in Form A, in Part III,

(i) in paragraph (b), after the words "with each eye", the following brackets and words shall be inserted, namely :—

"(or if you have held a licence to drive a motor vehicle for a period of not less than five years and if you

have lost sight of one eye after the said period of five years and if the application is for driving a light motor vehicle, other than a transport vehicle, fitted with an outside mirror on the steering wheel side, with one eye),";

(ii) in paragraph (*f*), after the words "unable to hear", the brackets and words "(and if the application is for driving a light motor vehicle, with or without hearing aid)" shall be inserted;

(*b*) in Form AA, for the words "I hereby", the following words "I, Shri/Shrimati/Kumari....., hereby" shall be substituted;

(*c*) in Form B,—

(i) below the heading "*Form of application for the renewal of driving licence*", the figure "I" shall be inserted;

(ii) for the words "I hereby apply", the words "I, Shri/Shrimati/Kumari....., hereby apply" shall be substituted;

(iii) for the words beginning with "I hereby declare" and ending with "danger to the public", the following figures, words, brackets and letters shall be substituted, namely :—

'*II*

Declaration as to physical fitness of the applicant

(The applicant is required to answer "yes" or "no" in the space provided opposite each question).

(*a*) Do you suffer from epilepsy, or from sudden attacks of disability, giddiness or fainting ?

(*b*) Are you able to distinguish with each eye (or if you have held a licence to drive a motor vehicle for a period of not less than five years and if you have lost sight of one eye after the said period of five years and if the application is for driving a light motor vehicle, other than a transport vehicle, fitted with an outside mirror on the steering wheel side, with one eye), at a distance of 25 meters in good daylight (with glasses, if worn), a motor car number plate containing seven letters and figures ?

(*c*) Have you lost either hand or foot or are you suffering from any defect in movement, control or muscular power of either arm or leg ?

(*d*) Can you readily distinguish pigmentary colours red and green ?

(*e*) Do you suffer from night blindness ?

(*f*) Are you so deaf as to be unable to hear (and if you are an applicant for the renewal of a driving licence in respect of light motor vehicle with or without hearing-aid) the ordinary sound signals ?

(*g*) Do you suffer from any other disease or disability likely to cause your driving of motor vehicle to be a source of danger to the public ?

I declare that to the best of my knowledge and belief, the particulars given in Section I and the declaration made in Section II hereof are true.

NOTE 1.—An applicant who answers " yes " to any of the questions (*a*), (*c*), (*e*), (*f*) and (*g*) or " no " to either of the questions (*b*) and (*d*) should amplify his answer with full particulars and may be required to give further information relating thereto.

NOTE 2.—An applicant who answers " yes " to questions (*b*), (*c*) and (*d*) in the declaration and "no" to the other questions may claim to be subjected to a test as to his competency to drive vehicles of a specified class or classes.

NOTE 3.—An application for renewal of a driving licence to drive as a paid employee or to drive a transport vehicle or where in any other case the original licence was issued on production of a medical certificate, shall be accompanied by a medical certificate in Form C.' :

(*d*) in Form C, in sub-paragraph (*d*) of paragraph 4, after the word " hearing ", the brackets and words " (and in the case of an applicant for a licence to drive a light motor vehicle, with or without hearing-aid) " shall be inserted ;

(*e*) in Form D,—

(i) for the expression " son/daughter of (father's name) ", the expression " wife/son/daughter, of " shall be substituted ;

(ii) for the words "He is", the expression "He/She is" shall be substituted;

(f) in Form E,—

(i) in item 1, for the words "or husband", the words and brackets "and husband (in the case of a married woman)" shall be substituted;

(ii) after item 7, the following item shall be inserted, namely :—

"7A. Cubic capacity.....";

(iii) after item 10, the following item shall be inserted, namely :—

"10A. Fuel used in the engine.....";

(iv) for item 15, the following item shall be substituted, namely :—

"15. Maximum laden weight—

(*a*) as certified by manufacturer..... ...Kgms.

(*b*) to be registered.....Kgms.";

(v) for the Note the following Note shall be substituted, namely :—

"NOTE.—The motor vehicle above described is—

(i) subject to a hire-purchase agreement with.. ;

(ii) subject to a hypothecation in favour of.... ;

(iii) not held under hire-purchase agreement or subject to any mortgage.

(Strike out whatever is not applicable and, if the motor vehicle is subject to hire-purchase agreement or hypothecation, obtain the signature of the hire-purchase company or the mortgagee, as the case may be).";

(vi) for the words "*Signature of the Hire Purchase Company*", the following expression shall be substituted:—

"Signature of—"Hire-purchase Company / Mortgagee";

(g) in Form G,—

(i) in line 8, for the words "or husband", the words and brackets "and husband (in the case of a married woman)" shall be substituted;

(ii) after item 7, the following item shall be inserted, namely :—

"7A. Fuel used in the engine.....";

(iii) after item 8, the following item shall be inserted, namely :—

"8A. Cubic capacity.....";

(iv) for item 12, the following item shall be substituted, namely :—

"Maximum laden weight—

(*a*) as certified by the manufacturer.....Kgms.

(*b*) as registered.....Kgms";

(v) for the Note, the following Note shall be substituted, namely :—

"NOTE.—The motor vehicle above described is—

(i) subject to a hire-purchase agreement with.....;

(ii) subject to a hypothecation in favour of.....;".

79. *Amendment of Second Schedule.*—In the Second Schedule to the principal Act,—

(i) in paragraph 4, after the words "with each eye", the following brackets and words shall be inserted, namely :—

"(or in the case of a person who has held a licence to drive a motor vehicle for a period of not less than five years and lost sight of one eye after the said period of five years and has applied for a licence to drive a light motor vehicle, other than a transport vehicle, with one eye)";

(ii) in paragraph 5, after the word "hearing", the words "or in the case of a person who has applied for a licence to drive a light motor vehicle, with or without hearing-aid" shall be inserted.

80. *Substitution of Third Schedule.*—For the Third Schedule to the principal Act, the following Schedule shall be substituted, namely :—

"THE THIRD SCHEDULE

[*See* sections 7(6) and 17(6)]

TEST OF COMPETENCE TO DRIVE

PART I

The candidate shall satisfy the person conducting the test that he is able to—

(1) start the engine of the vehicle;

(2) move away straight ahead and at an angle, while at the same time engaging the first and intermediate gears until the top gear is reached;

(3) change down to the lower gear quickly from the top gear when the traffic conditions warrant such change;

(4) overtake, allow to be overtaken, meet or cover the path of other vehicles and take an appropriate course with proper caution giving appropriate signals;

(5) turn right and left corners correctly;

(6) stop the vehicle in an emergency and normally and in the latter case bring it to rest at an appropriate course of the road;

(7) drive the vehicle backwards and whilst so doing enter a limited opening to the right and left;

(8) cause the vehicle to face in the opposite direction by means of forward and reverse gears;

(9) give by hand and by mechanical means (if fitted to the vehicle), or ,in the case of a disabled driver for whom it is impracticable or undesirable to give signals by hand, by mechanical means in a clear and unmistakable manner, appropriate signals at appropriate times to indicate his intended actions;

(10) act correctly and promptly on all signals given by traffic signs, automatic traffic lights, traffic police or other authorised persons and take appropriate notice of signs given by other road users;

(11) demonstrate general control of the vehicle by confident steering and smooth gear changing and braking as and when necessary;

(12) to change quickly to lower gear while driving downhill,

(13) to stop and re-start the vehicle on a steep upward incline making proper use of the handbrake or of the throttle and the foot-brake without any rolling back.

Note.—(i) Requirements (7) and (8) are not applicable in the case of a motor cycle or a tri-cycle not equipped with means for reversing;

(ii) Requirements (7), (8) and (9) are not applicable in the case of invalid carriages.

PART II

The candidate shall satisfy the person conducting the test that he is—

(1) cognizant of the provisions of Sections 81, 82, 83, 84 and 85 and of the Tenth Schedule;

(2) conversant with the general traffic rules and regulations relating to the use of lights, speeding, parking, stopping the vehicle in an emergency, accidents, production of documents, right of way, controlled and uncontrolled pedestrian crossings, meaning of light signals (amber, red and green), overtaking, taking a "U" turn, silence zones, one-way traffic, driving on channelised roads and other relevant matters;

(3) aware of the meaning of the traffic signs specified in the Ninth Schedule;

(4) not so deaf as to be unable to hear (or in the case of a person who has applied for a licence to drive a light motor vehicle with or without hearing-aid), the ordinary sound signals. (This shall not apply to a person who has produced a medical certificate in Form C);

(5) able to distinguish with each eye (or in the case of a person who has held a licence to drive a motor vehicle for a period of not less than five years and lost sight of one eye after the said period of five years and has applied for a licence to drive a light motor vehicle, other than a transport vehicle, fitted with an outside mirror on the steering wheel side, with one eye) at a distance of 25 metres in good daylight (with glasses if worn) a motor car number plate containing seven letters and figures. (This shall not apply to a person who has produced a medical certificate in Form C.).".

81 *Substitution of Sixth Schedule.*—For the Sixth Schedule to the principal Act, the following Schedule shall be substituted, namely:—

"THE SIXTH SCHEDULE

[*See* Section 24(3) and 29(2)]

REGISTRATION MARKS

One of the groups of letters specified in the second column followed by any other letter shall be used as the registration mark for a vehicle in the State specified in the first column.

1	2
Andhra Pradesh	AP, AA
Assam	AS
Bihar	BR, BH
Gujarat	GJ, GT
Kerala	KL
Madhya Pradesh	MP, CP
Madras	MD, MS
Maharashtra	MR, MH
Mysore	MY, ME
Nagaland	NL
Orissa	OR, OS
Punjab	PN, PU
Rajasthan	RJ, RS
Uttar Pradesh	UP, US, UT
West Bengal	WB, WG, WM
Delhi	DL, DH
Goa, Daman, Diu	GD
Himachal Pradesh	HI, HP
Manipur	MN
Pondicherry	PY, PD
Tripura	TR
Andaman and Nicobar Islands	AN
Laccadive, Minicoy and Amindivi Islands ..	LC, MA

Note 1.—These letters shall be followed by not more than four figures, and the letters and figures shall be shown—

1. In the case of transport vehicles ..	In black on a white ground.
2. In the case of temporary registrations (Section 25) .	In red on a yellow ground.

3.	In the case of registration marks allotted to dealers (Section 41(2)(*k*).	In white on a red ground.
4.	In other cases ..	In white on a black ground.

Note 2.—In respect of the Maharashtra State, the letters BM, BY may continue to be used in respect of vehicles which were registered before the 1st October, 1961.".

82. *Substitution of Eighth Schedule.*—For the Eighth Schedule to the principal Act, the following Schedule shall be substituted, namely :—

"THE EIGHTH SCHEDULE

(*See* Section 71)

LIMITS OF SPEED FOR MOTOR VEHICLES

Class of vehicle	*Maximum speed per hour in Kilometers*
(1) If all the wheels of the vehicle are with pneumatic tyres and the vehicle is not drawing a trailer :—	
(*a*) if the vehicle is a light motor vehicle or a motor cycle.	No limit.
(*b*) if the vehicle is a medium or heavy passenger motor vehicle.	
(c) if the vehicle is a medium or heavy goods motor vehicle.	
(*d*) if the vehicle is a heavy goods motor vehicle with an articulated trailer.	
(2) If the vehicle is drawing not more than one trailer (or in the case of artillery equipment, not more than two trailers) and all the wheels of that vehicle and the trailer are fitted with pneumatic tyres :—	
(*a*) if the vehicle is a light motor vehicle and the trailer being two-wheeled has a laden weight not exceeding 800 kgms.	

(b) if the vehicle is a light motor vehicle and the trailer has more than two wheels or a laden weight exceeding 800 kgms.,

(c) if the vehicle is a medium motor vehicle .. 50

(d) if the vehicle is a heavy motor vehicle .. 40

(3) Any case not covered by entry (1) or entry (2). 30"

83. *Insertion of new Schedule*.—After the Eleventh Schedule to the principal Act, the following Schedule shall be inserted, namely :—

"THE TWELFTH SCHEDULE

(*See* section 135)

REPEAL OF CERTAIN ENACTMENTS

Serial No.	*Short title*	*Extent of repeal*
1	2	3
1.	Motor Vehicles (Andhra Pradesh) (Andhra Area) Amendment Act, 1948 (20 of 1948).	The whole except sections 1 and 12.
2.	Motor Vehicles (Andhra Pradesh) (Telangana Area) Amendment Act, 1956 (45 of 1956).	The whole.
3.	Assam State Road Transport Act, 1954 (30 of 1954).	The whole.
4.	Assam State Road Transport (Amendment) Act, 1955 (18 of 1955).	The whole.
5.	Motor Vehicle (Bihar Amendment) Act, 1949 (27 of 1950).	The whole except sections 1 and 3.
6.	Motor Vehicles (Bihar Amendment) Act, 1953 (1 of 1954).	The whole.
7.	Motor Vehicles (Madras Amendment) Act, 1948 as applicable to Kerala (20 of 1948).	The whole except sections 1 and 3.
8.	Motor Vehicles (Madras Amendment) Act, 1949 as applicable to Kerala (44 of 1949).	The whole.

1	2	3
9.	Motor Vehicles (Madras Amendment) Act, 1954 as applicable to Kerala (39 of 1954) .	The whole.
10.	Motor Vehicles (Madras Amendment) Act, 1948 (20 of 1948) .	The whole except sections 1, 3 and 5.
11.	Motor Vehicles (Madras Amendment) Act, 1949 (44 of 1949) .	The whole.
12.	Motor Vehicles (Madras Amendment) Act, 1954 (39 of 1954) .	The whole except sections 1 and 2.
13.	Central Provinces and Berar Motor Vehicles (Amendment) Act, 1947 as applicable to Madhya Pradesh (3 of 1948) .	The whole.
14.	Motor Vehicles (Bombay Amendment) Act, 1947 (7 of 1947) .	The whole.
15.	Central Provinces and Berar Motor Vehicles (Amendment) Act, 1947 as applicable to Maharashtra (3 of 1947) .	The whole.
16.	Motor Vehicles (Bombay Amendment) Act, 1954 (31 of 1954) .	The whole.
17.	Motor Vehicles (Hyderabad Amendment) Act, 1956 as applicable to Maharashtra (55 of 1956) .	The whole.
18.	Motor Vehicles (Mysore Amendment) Act, 1953 (14 of 1953) .	The whole.
19.	Motor Vehicles (Mysore Amendment) Act, 1955 (166 of 1955).	The whole.
20.	Motor Vehicles (Bombay Amendment) Act, 1947 as applicable to Mysore (7 of 1947).	The whole.
21.	Motor Vehicles (Bombay Amendment) Act, 1954 as applicable to Mysore (31 of 1954) .	The whole.
22.	Motor Vehicles (Hyderabad Amendment) Act, 1956 as applicable to Mysore (45 of 1956) .	The whole.
23.	Motor Vehicles (Madras Amendment) Act, 1948 as applicable to Mysore (20 of 1948).	The whole.

1	2	3
24.	Motor Vehicles (Madras Amendment) Act, 1949 as applicable to Mysore (45 of 1949) .	The whole.
	Orissa Motor Vehicles (Amendment) Act, 1948 (1 of 1949) .	The whole.
	Orissa Motor Vehicles (Regulation of Stage Carriage and Public Carrier's Services) Act, 1947 (36 of 1947).	The whole.
	Orissa Motor Vehicles (Regulation of Stage Carriage and Public Carrier's Services) Amendment Act, 1951 (41 of 1951) .	The whole.
28.	Motor Vehicles (East Punjab Amendment) Act, 1948 (28 of 1948) .	The whole except sections 1, 3, 4 and 10.
29.	Motor Vehicles (United Provinces Amendment) Act, 1948 (11 of 1948) .	The whole.
30.	Motor Vehicles (Uttar Pradesh Amendment) Act, 1953 (28 of 1953) .	The whole.
31.	Uttar Pradesh Road Transport Services (Development) Act, 1955 (9 of 1955) .	The whole except sections 1 and 14.
32.	Motor Vehicles (West Bengal Amendment) Act, 1951 (19 of 1951) .	The whole.
33.	Motor Vehicles (Delhi Amendment) Act, 1954 (5 of 1954) .	The whole.
34.	Himchal Pradesh State Road Transport Act, 1953 (5 of 1954) ."	The whole.

STATEMENT OF OBJECTS AND REASONS

The Motor Vehicles Act, 1939 was amended comprehensively in 1956. Some minor amendments were also effected in the Act in 1960. With the rapid development of road transport during the past few years, a large number of suggestions for amendment of the Act have been received from the various State Governments and persons interested in the industry. The nationalised road transport undertakings have on the strength of their experience, also been pressing for some changes in the provisions which were introduced in 1956. Further, two Committees appointed by the Government, *viz.*, the Road Transport Reorganisation Committee, 1959 (commonly known as the Masani Committee) and the Motor Vehicles Insurance Committee, 1962-63, have made a number of recommendations requiring amendments to the Act. Besides, some suggestions for the amendment of the Act have also been made by some other bodies including the Technical Committee on Road Transport, the Road and Inland Water Transport Advisory Committee and the Transport Development Council. The Bill seeks to give effect to the above mentioned recommendations and to remove the difficulties with regard to the administration of the Act which have come to the notice of the Central Government from time to time.

The main purpose of the Bill is to provide for stricter control over drivers; liberalisation of the existing provisions relating to compensation payable to victims of road accidents; liberalisation of restrictions on inter-State movement of motor vehicles including tourist vehicles; provision of better facilities and amenities in tourist vehicles; improvements in the procedure for the grant and renewal of permits, registration certificates, driving licences and certificates of vehicle fitness; speedy and effective enforcement of the motor vehicle law; removal of procedural difficulties and doubts in regard to interpretation of certain provisions by clarifying the intention; levy of fees by various authorities for any specific services rendered by them; more severe punishment for repeated offences of the same nature; revision of the speed limits and weight limits of certain categories of vehicles and omission of certain obsolete provisions as well as repeal of such State amendments to the Act as are repugnant to the provisions of the Act.

The Bill also seeks to provide for the following matters which are not covered by the existing law, namely :—

(1) Compulsory insurance of motor vehicles against damage to property of third parties, including public property, of a value not exceeding Rs. 2,000.

(2) Imposition of penalty for wilful misrepresentation of facts by the registered owner of a vehicle to the insurer.

(3) Imposition of penalty for vexatious attempt by the insurer to repudiate his liability.

(4) Imposition of liability on the insurer to make a special deposit for payment of any claims that are unreasonably delayed or that may be settled after the insurer has gone into liquidation.

(5) Levy of interest where the insurer or the owner or the driver of the vehicle, as the case may be, delays payment of compensation decreed by a Court or awarded by a Tribunal.

(6) Covering of passenger risks in public service vehicles irrespective of the culpability of the owner or driver of such vehicle for any accident in which it may be involved provided that there was no contributory negligence on the part of the victim.

(7) Empowering of a hirer who possesses a driving licence for motor cars, to drive a taxi.

(8) Exemption from the requirement regarding the counter-signature of permit of a transport vehicle operating on an inter-State route in cases where the terminal points of the route are within the same State but the route passes over a distance of less than 16 kms. through another State.

(9) Validation of a specified number of contract carriage permits relating to tourist coaches and tourist taxis issued in one region of the State, in the other regions of that State without counter-signatures by the transport authorities of the other regions.

(10) Validation of a specified number of contract carriage permits relating to tourist coaches and tourist taxis issued in one State, in the other States without counter-signatures.

(11) Appointment of State Transport Appellate Tribunals, constituted by full-time judicial officers not below the rank of a District Judge, to hear appeals/revisions against the orders of the State/Regional Transport Authorities.

The provisions of the Bill have been more fully explained in the Notes on clauses of the Bill.

NEW DELHI,

RAJ BAHADUR.

The 6th December, 1965.

Notes on Clauses

Clause 2.—Sub-clause (a) .—It has been noticed that private cars are sometimes being hired or leased to third parties on a time basis without a route or area permit, taking advantage of the fact that the existing definition of a contract carriage does not visualise the hiring of a vehicle on time basis. This sub-clause therefore, seeks to include in this definition a car hired on time basis without refcrence to any particular route or distance.

Sub-clauses (b) and (c) .—Motor vehicles are classified as "heavy", "medium" and "light" for purposes of speed restrictions and also for the grant of driving licences. For instance, the maximum speed prescribed for a heavy vehicle is less than that prescribed for a medium or a light vehicle. In view of the improvement in recent years in the design of motor vehicles and also in road conditions, these sub-clauses seek to increase the weight limits for motor vehicles falling within this classification.

Sub-clause (d) .—Small three-wheelers (used for purposes of passenger transport) weigh slightly more than 500 kilograms but less than 600 kilograms. Instead of defining these vehicles separately for the purposes of the Act, this sub-clause seeks to classify them as motor-cycles by increasing the weight limit prescribed in regard to motor-cycles.

Sub-clause (e) .—Tourist coaches and tourist taxis are not defined in the Act at present. This sub-clause seeks to include them in the category of contract carriages so as to enable State Governments to ensure that vehicles used solely for tourists conform to much better standards of comfort as the State Government may specify in this behalf.

Clause 3.—Under the existing law, a person possessing a driving licence for a private car cannot drive a taxi cab even for his own use. In foreign countries, however, it is possible to hire and drive a taxi cab, on payment of moderate charges. This clause seeks to introduce a similar facility in India, particularly for the purpose of promotion of tourism.

Clause 4.—At present, a person has to apply for a driving licence to the licensing authority of the area where he ordinarily resides or carries on business. It has been pointed out that motor driving training schools do not exist in all the districts and it will be convenient to a person who undergoes training in a school to secure his driving licence before leaving the school. This clause enables a

person to obtain a driving licence from the licensing authority of the area in which the school where he gets training in motor driving is situated.

Clause 5.—Sub-clause (a).—At present, a driver of a transport vehicle and paid drivers of other motor vehicles are required to produce medical certificates only when they get the driving licence for the first time. With a view to reducing the risk of accidents owing to any disease or disability from which the holder of the licence may suffer, it is proposed to provide by this sub-clause for the production of medical certificate for the renewal of driving licence of such person.

Sub-clause (b).—This sub-clause is designed to ensure that unscrupulous drivers with a bad record of driving do not get their licences renewed in other places where their antecedents are not known. To prevent hardship to the drivers a provision has been made for the grant of provisional licences pending the verification of their antecedents.

Clauses 6 and 7.—At present, only total disqualification of a driver is possible. There may, however, be cases where it may be sufficient to restrict a driving licence to only vehicles of a particular class or description. These clauses enable the authorities concerned to order such partial disqualifications.

Clause 8.—This clause makes a consequential amendment

Clause 9.—Sub-clause (a).—This sub-clause enables a State Government to prescribe minimum qualifications for drivers of transport vehicles. It also contains the necessary safeguard to the effect that the existing drivers will be given sufficient time to acquire such qualifications as may be prescribed.

Sub-clause (b).—It has been pointed out that hold-up of inter-State traffic can be reduced if the drivers of public carriers' vehicles operating on inter-State permits wear distinctive badges and uniforms. The proposed amendment will enable the State Governments to frame rules prescribing such distinctive badges and uniforms.

Sub-clause (c).—Under clause (i) of sub-section (2) of section 21 of the Act, schools for giving driving instructions are established with the approval of the licensing authority of the area in which the school is to be established. These schools have also to be inspected and controlled by the licensing authority. The approval, inspection and control involve a considerable amount of work and expenditure

on the part of the licensing authority. Since the schools are run on commercial lines and adequate fees are realised from the persons receiving instruction and training, the proposed amendment provides for the levy of registration fee on these schools.

Clause 10.—It has been observed that chassis, registered temporarily and handed over to body-builders, are often not returned by the body-builders within a period of one month. The proposed amendment permits the registering authority to raise the maximum period of validity of temporary registration from one month to three months in respect of such chassis.

Clause 11.—It has been pointed out that considerable difficulties have been experienced in cases in which motor vehicles owners give incorrect addresses when they get their vehicles registered. The proposed amendment enables the registering authority to refuse registration, if inaccuracy in the particulars furnished in the application for registration is detected.

Clause 12.—This clause omits section 29A because the provisions of this section do not serve any useful purpose now

Clause 13.—At present there are no substantive provisions in the Act, enabling any endorsement on the certificate of registration of a vehicle to indicate that the vehicle is either covered by hire-purchase agreements or is hypothecated against any loans. The existing forms E and G in the First Schedule relating to registration of a motor vehicle, include a provision for indicating the name of the hire purchase financier if a vehicle at the time of registration is held under an agreement Detailed provisions have, of course, been made by the State Governments in the Motor Vehicles Rules regarding hire-purchase transactions. However, experience has shown that statutory provisions with regard to this matter are necessary.

Motor Vehicles are acquired not merely on hire-purchase basis but also with loans taken from banks, etc. The vehicles are offered as security for such loans. In the absence of any provision in the Act in regard to such hypothecation, it has been pointed out that banks, etc., are reluctant to finance the purchase of vehicles.

This clause provides for the endorsement of hire-purchase or hypothecation agreements on certificates of registration, cancellation of such endorsements and transfer of vehicles held under such agreements.

Clause 14.—The amendments made by this clause are of a purely clarificatory nature and are meant to remove the doubts raised in the course of the administration of section 36.

Clause 15.—It has been pointed out that certificates of fitness in respect of new transport vehicles are granted for different periods in the different States. Since new vehicles are expected to remain roadworthy for at least one year from the date of their registration, it is considered desirable to prescribe this minimum period in the Act itself. It is, however, felt that the certificate of transport vehicle licensed to operate in hilly areas should be subject to review after every six months because such vehicles are put to greater strain than the vehicles operating in plains.

Clause 16.—*Sub-clause* (*a*).—This amendment rectifies mistake which occurred in the Act in 1956.

Sub-clause (*b*).—This amendment is consequential upon the insertion of new section 31A proposed in clause 13 and it also seeks to empower State Governments to prescribe fees for endorsement of hire-purchase or hypothecation agreements on the certificate of registration.

Clause 17.—*Sub-clause* (*a*).—This sub-clause clarifies that a transport vehicle should not be used on a route which is not covered by its permit, even when it does not carry goods or passengers for hire or reward. This clarification became necessary because of a ruling of a High Court to the effect that the conditions of a permit are not binding on the permit holder when the transport vehicle concerned is run empty.

Sub-clause (*b*) (*ii*) and (*v*).—Experience has indicated that besides the purposes specified in sub-section (3) of section 42 for exemption of transport vehicles from the necessity of taking permits, it is necessary to allow such exemption in the case of the following classes of transport vehicles also :—

(i) any transport vehicle used by a dealer of motor vehicles or a body-builder for such purposes, (*e.g.*, demonstration of vehicles) as may be specified by the Central Government ;

(ii) any transport vehicle purchased in one State and proceeding to a place situated in any other State, without carrying any passenger or goods ;

(iii) any transport vehicle which has been temporarily registered, while proceeding empty to any place for the purpose of regular registration ;

(iv) any transport vehicle used for such purposes (other than plying for hire or reward) as the Central Government may specify by Notification : this is intended to facilitate inter-State movement of transport vehicles, *e.g.*, second-hand transport vehicles purchased in one State to be driven, empty to another State.

Sub-clause (*b*) (iv).—The words "except as may otherwise be prescribed" occurring in the beginning of clause (i) of sub-section (3) of section 42 have been taken, in certain States, to imply that light motor vehicles of the class mentioned in that clause can also be subjected to permit control. It was never intended to subject such vehicles used for non-commercial purposes to permit control. Hence the sub-clause seeks to delete these words.

Clause 18.—This is a clarificatory amendment.

Clause 19.—The proposed amendment enables the State Governments to constitute Regional Transport Authorities in any manner they think fit, *i.e.*, a Regional Transport Authority may consist of a single official or members of a Regional Transport Authority may be officials or non-officials or both. Provision has also been made for the transaction of business in the absence of the Chairman or any other member of a Transport Authority: this provision has been made for removing the doubts which were expressed during the course of administration of the provisions of section 44 of the Act.

Clause 20.—At present the operators have to approach several Regional Transport Authorities for counter-signature of permits when the route covered by such permits passes through several regions. Moreover a permit granted by one Regional Transport Authority is not valid in other regions even in the same State. This clause seeks to enable the grant or counter-signature of inter-regional and inter-State permits by the State Transport Authortiy.

This clause also requires every applicant for the grant of a stage carriage permit or a public carrier's permit to make a security deposit with a view to preventing the making of frivolous applications for the purpose of preventing the issue of a temporary permit under section 62 of the Act.

Clause 21.—These are clarificatory amendments.

Clause 22.—Unlike sections 51 and 56 which relate to the grant of contract carriage and public carrier's permits, section 48 does not authorise a Regional Transport Authority to vary or extend or curtail the route or area of a stage carriage permit. Since it may not be possible or desirable in certain cases to open new routes, *e.g.*, when services are required to be provided over a small stretch beyond the termini of an existing route, it is expedient to treat any such extension as variation of the existing permit. The proposed amendment will facilitate this procedure. Care has been taken to ensure that variation is granted only to serve the public convenience and only for short distances.

Clause 23.—It has been pointed out that when taxi permit holders are prosecuted for over-loading, they frequently take the plea that such over-loading does not amount to a breach of any condition of the permit because sub-section (2) of Section 51 does not contain a clause analogous to clause (vi) of sub-section (3) of Section 48 which applies to stage carriage permits. This clause seeks to clarify the position.

Clause 24.—This amendment is consequential upon the amendments of Sections 46 and 48 proposed in clauses 21 and 22.

Clause 25.—It has been pointed out that there is no uniform practice in the different States in regard to the renewal of permits, in cases where orders on renewal applications are passed after the expiry of the permits. In some States, renewal is granted from the date of the expiry of the permit while in others it is effective from the date on which it is actually sanctioned. This clause seeks to make it clear that the period of renewal of the permit shall run from the date of expiry of the original permit and ensures continuity of the permit and uniformity in this matter in all the States. This clause also provides for the refund of the fee paid in respect of temporary permit which may have been granted during the period from the date of expiry of the original until the renewal of the permit.

Clause 26.—*Sub-clause* (*a*).—It has been pointed out that replacement of a vehicle by another vehicle of the same capacity is difficult because the vehicles of recent models are generally of larger carrying capacity and that obtaining of a new permit involves not merely delay but competition with other new applicants, including some who have statutory advantage like a co-operative society. The proposed amendment seeks to protect the interest of a person whose permit has not expired but who, for good reasons, has to replace the vehicle covered by his permit by a new vehicle of a different capacity.

Sub-clause (*b*) (*i*).—The amendment seeks to enable a Transport Authority to suspend or cancel the permit of a transport vehicle which has operated without a valid certificate of fitness. It is felt that this executive action of the Transport Authorities will be deterrent to the practice of plying defective transport vehicles which are responsible for many accidents.

Sub-clause (*b*) (*ii*).—This is a clarificatory amendment and brings the provision of clause (c) of sub-section (3) of Section 59 in line with the provision of clause (i) of sub-section (1) of Section 43.

Sub-clause (*b*) (*iii*).—Section 5 requires that the owner of a vehicle shall not permit the vehicle to be driven by a person who does not hold a proper licence. Section 112 provides a maximum fine of Rs. 100 for the offence for the first time and Rs. 300 for a

subsequent offence. It has been felt that this penalty is not adequate and the permit should also be made liable to cancellation or suspension in the case of the owner of a transport vehicle who employes an unlicensed driver. The proposed amendment seeks to achieve this object.

Clause 27.—Sub-clause (*a*) and (*b*).—Since the State and Regional Transport Authorities may consist of several members and it may not be possible for all of them to meet often, it has been considered necessary to delegate their powers of suspending a permit or reducing the number of vehicles or the road or area covered by the permit for a period not exceeding a month, to any person subject to the condition that his order shall be placed within that period before the State Transport Authority or Regional Transport Authority concerned who may either vacate the orders made by that person or pass such other orders as it may consider fit. Such delegation has already been made in several States. There are conflicting judgments in two High Courts on the scope for delegating to the Secretary of a Transport Authority the power to suspend a permit issued by that Authority. The proposed amendment seeks to place the matter beyond doubt.

Sub-clause (*c*).—This sub-clause seeks to vest the power to compound offences conferred on a Transport Authority, in the appellate authority on appeal against an order of the Transport Authority revoking or suspending a permit.

Clause 28.—This amendment seeks to remove the difficulties which have been experienced in the grant of temporary permits in genuine cases, *viz.*, to cover the period of injunction issued by a Court or an Appellate Tribunal against the issue of a regular permit or to cover the period of suspension of a permit by a Court.

Clause 29.—*Sub-clause* (*a*).—At present a permit issued in one State for a vehicle which operates on a route passing also through other States will have to be countersigned by all the transit States. It has been pointed out that this procedure serves no useful purpose in regard to a route which originates and terminates in the same State but includes a negligible portion of another State. This amendment dispenses with the counter-signature procedure if the distance in the transit State does not exceed 16 kilometres and it will facilitate the flow of traffic on such routes.

Sub-clause (*b*).—This amendment is consequential upon the insertion of sub-section (2) in Section 45 as proposed in clause 20.

Sub-clauses (*c*) *and* (*d*).—There is no uniformity at present in the procedure being followed by the different State Governments in regard to the grant or counter-signature of permits in pursuance of the reciprocal agreements into which they enter. It has been repre-

sented that the existing operators providing services in the State in which a permit is countersigned do not sometimes get a reasonable opportunity to make representation about the adequacy of the services for the traffic available on the routes in question. It has been further represented that once an inter-State agreement is finalised, its revision may become difficult. This amendment requires a State Government to publish in its Gazette the draft of an agreement which it proposes to conclude with another State Government for the operation of transport vehicles on any inter-State route and provides an opportunity to the existing operators and other interests concerned to file objections. The agreement is to be finalised after considering the objections and it is to be published in the Gazette before implementation.

Sub-clause (*e*) .—The existing procedure for the grant of special permits under sub-section (6) of section 63 involves delays which adversely affect tourist traffic. It has been considered that the interests of tourist traffic require the grant of regular inter-regional and inter-State permits for vehicles used exclusively for tourists. Operation of these tourist vehicles will be subject to certain special conditions in the interest of the passengers.

Clause 30.—This clarificatory amendment will obviate the possibility of any conflict between the directions issued by the Inter-State Transport Commission under section 63-A (2) (c) and those issued by a State Government under section 43 (1) .

Clause 31.—The rule-making powers of the Central Government under clause (h) of section 63-C enables the constitution of an Appellate Authority against the decision of the Inter-State Transport Commission. It has been pointed out that this rule-making power should be backed by substantive provisions in this matter. Hence this amendment.

Clause 32.—This amendment is consequential upon the amendment made by clause 31.

Clauses 33 *and* 34.—Sub-clause (a) (i) of Clause 33 makes an amendment which is consequential to the amendment of sections 45 and 63 [*vide* clauses 20 and 29 (e)]. The other provisions in these clauses provide for the appointment in each State of Transport Appellate Tribunal with a full-time judicial officer, not below the rank of a District Judge, to hear appeals and revisions against the orders of the State Transport Authority and Regional Transport Authorities. An exception has, however, been made in the case of Union territories in view of their small size and the difficulty in securing the services of whole-time judicial officers in those territories.

The explanation in clause 33 makes it clear that a State Transport Appellate Tribunal will continue to decide whether the orders of the State/Regional Transport Authorities, which seek to give effect to the directions or orders of the Inter-State Transport Commission, are strictly in consonance with the Commission's directions or orders and that at no stage, the subject-matter of the Commission's directions or orders will fall within its jurisdiction. An appeal against the Commission's directions or orders shall be heard by the appellate authority specified by the Central Government under clause (b) of Section 63-C.

Clause 35.—The Motor Transport Workers Act, 1961, which applied only to motor transport undertakings employing five or more transport workers, restricts the hours of work of drivers of transport vehicles to 8 hours per day and 48 hours per week. The proposed amendment seeks to bring the existing provisions of the Motor Vehicles Act in line with the requirements of the Motor Transport Workers Act in respect of hours of work of drivers.

Clause 36.—Rules have been made by certain State Governments under clause (w) and (ww) of sub-section (2) of Section 68 for licensing of persons engaged in the business of sale of tickets for travel by public service vehicles and in the business of collecting, forwarding and distributing goods carried by public carriers. These rules of one State have been declared null and void by that State's High Court. The proposed new section 66-A seeks to remove any doubt about the validity of the rules under said section by making substantive provisions in the Act.

Clause 37.—*Sub-clause* (*a*).—This amendment is consequential upon the insertion of proviso (ii) in sub-section (2) of Section 44 by clause 19 (b).

Sub-clause (*b*).—It has been pointed out that applications for permits which are required to be published under Section 57, for any representations by the interests affected, are not published for considerable periods—thereby delaying a decision on the applications. It has also been represented that copies of the applications should be supplied to those who, on payment of specified fee, desire to be placed on the list of subscribers for this purpose. This amendment, therefore, authorises the State Government to provide for the publication of applications within a reasonable time from the date of their receipt and also for the grant of copies of applications to the interests affected on payment of fee to be specified in this behalf.

Sub-clause (*c*).—This is a clarificatory amendment.

Clause 38.—*Sub-clause* (*a*).—Sub-clause (iii) of clause (b) of Section 68-A is superfluous as the Delhi Road Transport Authority Act, 1950 has already been repealed by the Delhi Municipal Corporation Act, 1956 and the Delhi Transport Undertaking is now covered by sub-clause (iv) of clause (b) of the said Section 68-A.

Sub-clause (*b*).—This amendment seeks to bring within the purview of Chapter IV-A of the Act such road transport undertakings as are owned or controlled by the Central Government or by the Central Government and one or more State Governments.

Clause 39.—Experience has shown that innumerable objections most of them frivolous, are filed under sub-section (1) of Section 68-D by persons who have no interest in the matter, presumably at the instigation of affected private operators so that there may be delay in finalising the schemes by State Road Transport Undertakings. This amendment restricts representations which may be filed against the schemes of State Road Transport Undertakings to the classes of persons who are at present eligible to file such objections under Sections 47 and 55 of the Act relating to the procedure for considering applications for stage carriage and public carrier's permits.

Clause 40.—*Sub-clause* (*i*).—This amendment seeks to enable certain modifications to be made by a State Transport Undertaking in its approved scheme, with the prior approval of the State Government, without publishing the modifications for the purpose of inviting objections, in respect of completely nationalised routes. This provision will be in the public interest, as State Transport Undertakings will be able to adjust timing of their service quickly in response to public requirements.

Sub-clause (*ii*).—This amendment authorises the State Government to review and modify an approved scheme of a State Road Transport Undertaking, at any time in the light of its working, after giving a hearing to the persons concerned in the event of the modifications being prejudicial to their interest.

Clause 41.—*Sub-clause* (*a*) (*i*).—The existing provision which requires a State Transport Undertaking to apply for permits in the manner specified in Chapter IV for implementation of its scheme, does not serve any useful purpose, because the views of the concerned persons would have already been taken into account by the State Government before approving the scheme. This amendment, therefore, leaves it to the State Governments to prescribe the manner in which the applications for permits should be made by State Transport Undertakings.

Sub-clause (*a*) (*ii*).—This amendment requires the making of applications by State Transport Undertakings for permits to the State Transport Authority if the route or area which will be covered by the permit lies in more than one region.

Sub-clause (*b*) (*i*).—This amendment is consequential upon the amendment in sub-clause (a) (ii).

Sub-clause (*b*) (*ii*).—This amendment enables the Transport Authority to refuse to entertain any application for the grant of any permit to a party other than the State Transport Undertaking and to reject any such pending application, in order to enable a State Transport Undertaking to implement its approved scheme.

Sub-clause (*c*).—This amendment is consequential upon the amendment in sub-clause (a) (ii).

Clause 42.—This new section seeks to prohibit the grant of regular permits to private operators after the State Government has approved the scheme prepared by a State Transport Undertaking, in respect of the route on which services are to be operated by that undertaking alone in pursuance of that scheme. Provision has also been made for the grant of temporary permits to private operators till the State Transport Undertaking is able to implement the scheme.

Clause 43.—This amendment is consequential upon the amendment in sub-clause (a) (ii) of clause 41.

Clause 44.—This provision enables a State Transport Undertaking to dispose of articles found in its vehicle, after following such procedure as may be prescribed by the State Government. The sale proceeds, after deducting the costs incidental to sale, shall have to be paid to the owner of the articles.

Clause 45.—These amendments are consequential upon the amendments made by sub-clause (a) (i) of clause 41 and clause 44.

Clause 46.—It vests in the Central Government the powers which have been conferred on the State Governments by Chapter IV-A in relation to State Transport Undertakings owned or controlled by it, so far as inter-State routes or areas are concerned. This provision is for administrative convenience.

Clause 47.—This provision makes it clear that all motor vehicles which are manufactured in this country and which do not have right hand steering control shall be equipped with mechanical or electrical signalling devices of a prescribed nature.

Clauses 48 *and* 49.—These amendments seek to make clear that manual signalling by drivers will be permitted in the case of vehicles with right hand steering control and that in the case of vehicles with left hand steering control the signal shall be given by mechanical or electrical devices fitted to the vehicles, provision has also been made for grant of exemption by the Central Government in respect of specified motor vehicle or class of motor vehicles for the purpose of plying in specified areas or routes. Such exemption may be necessary in areas where the roads are very narrow and where even the spare tyres have to be removed from the sides of jeeps (*e.g.* in NEFA).

Clause 50.—This amendment is consequential upon the amendment made by sub-clause (a) (i) of Clause 54.

Clause 51.—At present sub-section (1-A) of Section 92 enables the Central Government to make rules for the purpose of facilitating and regulating the services of motor vehicles operating between India and any other country contiguous to it under any reciprocal arrangement and carrying passengers or goods or both for hire or reward. This clause seeks to authorise the Central Government to make such rules for the operation of transport vehicles between India and any foreign country, whether contiguous to it or not under reciprocal arrangements. Although the necessity of framing such rules does not exist at present, it is considered advisable to make this enabling provision for use as and when necessary.

Clause 52.—These amendments are consequential upon the amendments made by sub-clause (a) (i) of clause 54.

Clause 53.—This amendment is consequential upon the amendment made by sub-clause (b) of Clause 38.

Clause 54.—*Sub-clause* (*a*) (*i*).—This amendment requires that a policy of insurance of a motor vehicle under Chapter VIII covers the following additional matters, namely :—

(1) damage to any property of a third party ;

(2) death or bodily injury to any passenger of a public service vehicle, even though the owner or the driver of the vehicle may not be responsible for the accident, provided there is no contributory negligence on the part of the passenger.

Sub-clause (*a*) (*ii*).—It has been contended that if a motor vehicle which is being driven on a public road gets out of control and knocks down a person in some private premises situated by the side

of that road, that person or his heirs will not be entitled to any compensation from the insurance company. This amendment makes it clear that an accident shall be deemed to have been caused in a public place notwithstanding the fact that the person injured or the property damaged by the accident was not actually in a public place, if the cause which led to the accident had occurred in a public place.

Sub-clause (*b*).—These amendments enhance suitably the limits up to which the various classes of motor vehicles are required to be insured. The existing limits were laid down in 1939 and there has been considerable rise in the cost of living and increase in the carrying capacity of motor vehicles since then.

At present damage to third party property is not covered by a policy of insurance under Chapter VIII. This sub-clause seeks to lay down a limit of Rs. 2,000 in respect of damage to any property of a third party, with a view to avoiding the inconvenience, delay or harassment to people of small means.

Clause 55.—This clause seeks to require an insurer to make a deposit of Rs. 30,000 as security for the due discharge of any liability covered by a policy of insurance issued by him under Chapter VIII. This deposit will be in addition to the deposit required to be made by him under the Insurance Act, 1938. This provision will ensure payment of compensation to victims in cases where compensation has been decreed by the competent authority but payment is denied or unreasonably delayed by the insurer.

Clause 56.—At present there is no provision in the Act in regard to transfer of the insurance policy after the sale of a vehicle to which it relates. Different views have been expressed by different High Courts in regard to the rights of the insurer and the insured with regard to this matter. The proposed amendment seeks to make necessary provision with regard to the matter.

Clause 57.—This amendment is consequential upon the amendment made by sub-clause (a) (i) of Clause 54.

Clause 58.—*Sub-clause* (*a*).—The present wording of clauses (b) and (c) of Section 110-A (1) does not permit any one of the legal representatives or his duly authorised agent to claim compensation. The proposed amendment seeks to make the necessary provision in this behalf.

Sub-clause (*b*).—This amendment raises the time limit of 60 days for filling an application for compensation, to six months.

Clause 59.—At present it is open to a workman to file a claim before a Commissioner for compensation under the Workmen's Compensation Act, 1923, even though he had preferred a claim under the Motor Vehicles Act to a Motor Accidents Claims Tribunal. It was never intended, nor it is desirable, to allow a workman to claim relief under both the Acts. Hence this proposed amendment.

Clause 60.—This amendment is of a clarificatory nature.

Clause 61.—This clause seeks to enable the Motor Accidents Claims Tribunal to impose a fine on a party, who wilfully remains absent or fails to give evidence, and to suspend his driving licence if that party is the driver of the vehicle involved in the accident and to suspend the permit or registration certificate if that party is the owner of the vehicle. This clause also seeks to empower the tribunal to permit the insurer to contest a claim where it is satisfied that (i) there is a collusion between the claimant and whom the claim is made, has failed to contest the claim or (ii) the person against the person against whom the claim is made, has failed to contest the claim.

Clause 62.—The proposed new sections seek to provide for the award of interest by any Court or Claims Tribunal where the award of compensation is delayed and also for the award of costs where the policy of insurance has been obtained by non-disclosure or mis-representation of a material fact or where a party has put forward a false or vexatious claim or defence. These provisions are intended to expedite settlement of claims and payment of compensation.

Clause 63.—This amendment enables recovery of compensation, as arrear of land revenue, from any person against whom the decree or award of compensation is passed. The existing provision is confined to insurers only.

Clause 64.—This amendment seeks to enable the State Government to provide for levy of fees on appeals against the awards of Motor Accidents Claims Tribunals.

Clause 65.—This amendment seeks to make an offence under Section 5 punishable with imprisonment or/and fine as in sub-section 1 of Section 114. At present this offence is punishable under section 112, with fine up to Rs. 100 on the first occasion and Rs. 300 on subsequent occasions.

Clause 66.—This amendment enhances the amount of the maximum fine prescribed for the offence of driving at excessive speed and of carring a person to drive at excessive speed. It is felt that the enhanced fine will discourage driving at excessive speed.

Clause 67.—At present the offence of overloading a public service vehicle is punishable under Section 112. That section provides punishment for various offences of a minor nature. Offence of overloading of buses and taxis being quite serious, this clause seeks to bring the offence within the purview of section 123.

Clause 68.—This clause seeks to provide punishment for the offence of engaging without proper licence in the business of sale of tickets for travel by public service vehicles or in the business of collecting, forwarding or distributing goods carried by public carriers. The punishment is the same as in Section 123 for operating a transport vehicle without a permit.

Clause 69.—It is a clarificatory amendment.

Clause 70.—The new section provides for a minimum fine for a second subsequent offence, if committed within a period of three years from the date of a commission of the previous offence.

Clause 71.—This amendment seeks to enable seizing of the certificate of registration of a vehicle for an alleged offence of using the vehicle without a permit, so that the vehicle-owner may not transfer the vehicle to another person to defeat the object of prosecution.

Clause 72.—The existing provisions of Section 180 take away the power of courts to impose the maximum punishment prescribed by the various sections of the Act, in respect of offences which are not specified in Part A of the Fifth Schedule to the Act, and restrict the power of the Court to impose fine up to Rs. 25. It was never intended that the procedure of summary disposal laid down in that section should whittle down the court's discretion to impose, on the facts of a case, the maximum punishment laid down in the other sections. Hence the proposed amendment.

Clause 73.—This new section to require courts to indicate to the licensing authorities particulars of the drivers who are convicted by them and also of the punishment imposed.

Clause 74.—State Governments have made rules providing for levy of fees for the carious purposes connected with the administration of this Act and for which there is no specific provision in the Act. It has been pointed out that the validity of these rules is open to doubt, in the absence of a specific provision in the Act authorising the levy of fees for these purposes. This new Section seeks to remove this doubt.

Clause 75.—This amendment seeks to confer certain additional powers on the officers of the State Governments' Motor Vehicles

Departments, for the purpose of enforcement of the various provisions of this Act. Similar powers are already being exercised by Police personnel who are on deputation to these departments.

Clause 76.—This amendment seeks to empower the appellate/revisionary authority to extend the period of validity of a permit, on appeal/revision against refusal to renew it, until the appeal/revision is disposed of. It has been pointed out that absence of this power has resulted in hardship in genuine cases.

Clauses 77 *and* 83.—This new section and the Twelfth Schedule seek to repeal such provisions of the State Acts as are repugnant to the provisions of the Motor Vehicles Act, 1939 or are redundant in view of the provisions of the Act and to the repeal of which the State Governments have agreed.

Clause 78.—*Sub-clause* (*a*) (*i*) *and Clause* 79 (*i*).—These amendments seek to enable a person, who had held a driving licence for 5 years or more and loses his sight in one eye thereafter, to continue to be qualified for driving a non-commercial light vehicle. It has been pointed out that the present requirement of reading a registration mark with *each* eye does not exist in many foreign countries and that it entails hardship to one-eyed persons who are otherwise fit to drive. It is felt that the proposed provision will not increase the risk of accidents because a person who has been driving for a number of years and loses his sight in one eye thereafter, will have acquired considerable road experience and driving judgment for safe handling of a non-commercial light vehicle.

Clause 78.—*Sub-clauses* (*a*) (*ii*) *and* (*d*) *and Clause* 79 (*ii*). The existing provisions make "a degree of deafness which prevents an applicant from hearing the ordinary sound signals" and absolute disqualification for obtaining a driving licence and do not indicate whether audibility should be tested without the use of ear-aids. It is considered reasonable that a person who can hear with hearing-aid should not be debarred from driving light motor vehicles.

Clause 78.—*Sub-clauses* (*b*) *and* (*c*) (*ii*).—These are formal amendments and require the applicant to specify his name clearly in his application for the addition of a new class of vehicle to his driving licence or for the renewal of the licence.

Clause.—78 *Sub-clauses* (*c*) (*i*) *and* (*iii*).—The existing form of application for renewal of driving licence does not require the specific indication of any physical defect or disability which might have been developed by the licence holder subsequent to the grant or previous

renewal of the licence. This amendment seeks to remove this lacuna and is necessary in the interest of road safety.

Clause 78.—*Sub-clauses* (*e*), (*f*) (*i*) *and* (*g*) (*i*).—These are formal amendments to make it clear that in the case of married women the name of the husband should be indicated.

Clause 78.—*Sub-clauses* (*f*) (*ii*) *and* (*g*) (*iii*).—These amendments require the mention of cubic capacity in the application for registration and the certificate of registration of a motor vehicle because the insurance companies have adopted the basis of cubic capacity for the purpose of calculating premium.

Clause 78.—*Sub-clauses* (*f*) (*iii*) *and* (*g*) (*ii*).—These amendments are necessary to enable the Motor Vehicles Registering Authority to compile figures of diesel engined petrol engined vehicles.

Clause 78.—*Sub-clauses* (*f*) (*iv*) *and* (*g*) (*iv*)—.These amendments require the mention of the maximum laden weight as certified by the manufacturer, in the application for registration and the certificate of registration of a motor vehicle.

Clause 78.—*Sub-clauses* (*f*) (*v*), (*vi*) *and* (*g*) (*v*).—These amendments are consequential upon insertion of the new section 31-A, proposed in clause 13.

Clause 80.—This amendment substitutes the present TEST OF COMPETENCE TO DRIVE by a more comprehensive and stricter test, to improve the standard of driving and to minimise motor vehicle accidents.

Clause 81.—This amendment seeks to bring the existing Sixth Schedule up-to-date by prescribing (i) additional groups of letters for registration marks of motor vehicles in the State where the existing groups of letters are not sufficient to meet the requirement of increasing numbers of vehicles and (ii) groups of letters for those States which were created as a result of the reorganisation of the States. The letters 'AA' have been allotted to Andhra Pradesh in place of the existing letters 'AD' to meet the requirement of that State Government. A provision for retaining the old registration letters (*viz*. BM, BY) in Maharashtra State on motor vehicles registered before 1st October, 1961, has also been made to meet the requirement of that State Government.

Clause 82.—The proposed revised Eighth Schedule seeks to increase the speed limits suitably for certain classes of motor vehicles in view of the improvement in road designs and better types of vehicles now in operation. The increase in speed limits is five or ten kilometres per hour and it is not such as to endanger road safety

FINANCIAL MEMORANDUM

Under clause 33 of the Bill, the proposed sub-section (2) of Section 64 requires the State Governments to constitute in the State a State Transport Appellate Tribunal which shall consist of a whole time judicial officer not below that rank of a District Judge. In the case of a Union territory, however, the tribunal may consist of the Administrator of that territory or any officer who has judicial experience. Appellate authorities already exist in the State and the Union territories. No additional appeal work will be created by this provision and the existing arrangements in the Union territories will continue, except that the appeals will be heard by an officer who has judicial experience. If the present officer who constitutes the appellate authority does not have judicial experience, another person having judicial experience will have to be appointed in his place. This will be done by the transfer of a suitable officer. It is not proposed to make any fresh appointment for this purpose. This provision will not, therefore, actually involve an expenditure out of the Consolidated Fund of India.

Clause 54 of the Bill seeks to raise the limits of insurance for various classes of motor vehicles. Raising the limits of insurance will not, by itself, involve any expenditure from the Consolidated Fund of India in respect of Government vehicles. Government vehicles which are not connected with any commercial enterprise are exempt from insurance under the principal Act. As regards Government vehicles which are connected with a commercial enterprise, they can be granted exemption from this insurance if the concerned department sets up an insurance fund of its own in accordance with the rules framed by the Central Government. These rules provide for contribution to the fund at specified rates. These rates are not proposed to be increased. It is proposed to advise the State Transport Undertakings which are operated departmentally in the Union territories to set up their own insurance funds in accordance with the said rules. If, however, the State Transport Undertakings do not set up such funds, some expenditure from the Consolidated Fund of India may have to be incurred in respect of the commercial enterprises in the Union territories, but it is not possible at this stage to assess the quantum of such expenditure because such expenditure will depend upon the rates of premia fixed by the insurers.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill empowers the State Governments to make rules in respect of the following matters, namely :—

(i) the minimum qualifications which a person should have in order to be entitled to obtain a licence to drive a transport vehicle and the time within which such qualifications are required to be acquired by persons holding such licence at the commencement of this Act and the duties and conduct of such persons; the distinctive badges and uniforms which are required to be worn by drivers of transport vehicles on inter-state routes and the registration of schools established for the instruction of drivers of motor vehicles and fees to be paid to such schools (Clause 9);

(ii) the fees which are required to be paid for making or cancelling any endorsement in respect of any agreement of hire-purchase or any hypothecation on a certificate of registration. (Clause 16);

(iii) transaction of business at a meeting of a State Transport Authority or a Regional Transport Authority in the absence of the Chairman or any other member, (Clause 19) ;

(iv) the authority which shall be competent to grant a licence to a person to engage himself as an agent or canvasser in the sale of tickets for travel by public service vehicle or as an agent in the business of collecting, forwarding or distributing goods carried by public carriers and the conditions subject to which such licence may be issued, (Clause 33);

(v) the manner in which and the time within which every application for a stage carriage permit or a public carrier's permit shall be published and the circumstances under which and fees on payment of which copies of such applications may be granted, (Clause 37);

(vi) the manner in which the applications may be made by a State Transport Undertakings for permits in pursuance of its approved schemes and the period within which the owner may claim an article found left in any transport vehicle operated by a State Transport Undertaking and the manner of sale of unclaimed articles by that Undertaking, (Clause 45);

(vii) the fees on payment of which the appeals may be preferred against the awards of the Motor Accidents Claims Tribunal, (Clause 73);

(viii) the particulars which every Court convicting a licensed driver should communicate to the licensing authority, (Clause 73);

(ix) fees for any matter involving the rendering of any service of the officers or authorities under the Act or any rule made thereunder, (Clause 74);

(x) the powers which may be exercised by any officer of the Motor Vehicles Department in addition to the powers conferred on such officers by clause 75 of the Bill.

2. The Bill also empowers the Central Government to make rules with regard to the following matters, namely :—

(i) additional conditions under which a permit may be granted to a tourist vehicle, (Clause 29);

(ii) the fees on payment of which, an appeal against any decision, direction or order of the Inter-State Transport Commission may be preferred, (Clause 32);

(iii) fees in respect of any matter involving the rendering of any service by the officers or authorities under the Act or any rule made thereunder, (Clause 74).

3. The Bill further empowers the Central Government to exercise the powers conferred on the State Government by Chapter IV-A of the principal Act in respect of a corporation or company owned or controlled by the Central Government or by the Central Government and one or more State Governments in relation to an inter-State route or area. The effect of this provision is that the Central Government will have the power to make rules under section 68 I of the principal Act in relation to such corporations.

4. The delegation of the legislative powers is of a normal character.

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PART IV

Section 1-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON

GOVERNMENT OF MYSORE

NOTIFICATION

LAW DEPARTMENT

No. LAW 17 LCA 66, Bangalore, dated 6—20th June 1966.

Ordered that the Asian Development Bank Bill, 1966 (Bill No. 33 of 1966), which has been published in the *Gazette of India*, Extraordinary, Part II, Section 2, dated the 28th April 1966 be republished in the *Mysore Gazette*, for general information.

By Order and in the name of the Governor of Mysore,

H. K. ANANTHASUBBA RAO,
Under Secretary to Government,
Law Department.

LOK SABHA

The following Bill was introduced in Lok Sabha on the 28th April, 1966 :—

BILL NO. 33 OF 1966

A bill to implement the international agreement for the establishment and operation of the Asian Development Bank and for matters connected therewith.

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Asian Development Bank Act, 1966.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(*a*) "Agreement" means the Agreement for the establishment and operation of the international body known as the Asian Development Bank;

(*b*) "Bank" means the Asian Development Bank established under the Agreement.

3. *Payments to Bank*—(1) *There shall be paid out of the Consolidated Fund of India, after due appropriation made by Parliament by law in this behalf, all such sums as may, from time to time, be required for the purpose of paying,—*

(*a*) *the subscriptions payable by the Central Government to the Bank under paragraphs* 1, 2 *and* 3 *of Article* 5 *of the Agreement;*

(*b*) *any commission, fees or other charges payable by the Central Government to the Bank under Article* 16 *of the Agreement;*

(*c*) *any sums payable by the Central Government to the Bank under paragraph* 1 *of Article* 25 *of the Agreement.*

(2) *The Central Government may, if it thinks fit so to do, create and issue to the Bank, in such form as it thinks fit, any such non-interest bearing and non-negotiable notes or other obligations as are provided for by paragraph* 3 *of Article* 6 *of the Agreement.*

4. *Reserve Bank to be depository for Bank.*—The Reserve Bank of India shall be the depository of the Indian currency holdings of the Bank.

5. *Conferment of status and certain immunities, exemptions and privileges on Bank and conferment of certain immunities, exemptions and privileges on its officers and employees.*—(1)

Notwithstanding anything to the contrary contained in any other law, the provisions of the Agreement set out in the Schedule shall have the force of law in India :

Provided that nothing in Article 56 of the Agreement shall be construed as—

(*a*) entitling the Bank to import into India goods free of any duty of customs without any restriction on their subsequent sale therein ; or

(*b*) conferring on the Bank any exemption from duties or taxes which form part of the price of goods sold ; or

(*c*) conferring on the Bank any exemption from duties or taxes which are in fact no more than charges for services rendered.

(2) The Central Government may, by notification in the Official Gazette, amend the Schedule in conformity with any amendments, duly made and adopted, of the provisions of the Agreement set out therein.

6. *Power to make rules.*—The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

7. *Notifications issued under section 5 and rules made under section 6 to be laid before Parliament.*—Every notification issued under sub-section 2 of section 5 and every rule made under section 6 shall be laid as soon as may be after it is issued or made before each House of Parliameat while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the notification or, as the case may be, in the rule, or both Houses agree that the notification or rule should not be issued or made, the notification or rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule.

THE SCHEDULE

(*See* section 5)

PROVISIONS OF THE AGREEMENT WHICH SHALL HAVE FORCE OF LAW

CHAPTER VIII

STATUS, IMMUNITIES, EXEMPTIONS AND PRIVILEGES

ARTICLE 48

PURPOSE OF CHAPTER

To enable the Bank effectively to fulfil its purpose and carry out the functions entrusted to it, the status, immunities, exemptions and privileges set forth in this Chapter shall be accorded to the Bank in the territory of each member.

ARTICLE 49

LEGAL STATUS

The Bank shall possess full juridical personality and, in particular, full capacity :

(i) to contract ;

(ii) to acquire, and dispose of, immovable and movable property ; and

(iii) to institute legal proceedings.

ARTICLE 50

IMMUNITY FROM JUDICIAL PROCEEDINGS

1. The Bank shall enjoy immunity from every form of legal process, except in cases arising out of or in connexion with the exercise of its powers to borrow money, to guarantee obligations,

or to buy and sell or underwrite the sale of securities, in which cases actions may brought against the Bank in a court of competent jurisdiction in the territory of a country in which the Bank has its principal or a branch office, or has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities.

2. Notwithstanding the provisions of paragraph 1 of this Article, no action shall be brought against the Bank by any member, or by any agency or instrumentality of a member, or by any entity or person directly or indirectly acting for or deriving claims from a member or from any agency or instrumentality of a member. Members shall have recourse to such special procedures for the settlement of controversies between the Bank and its members as may be prescribed in this Agreement, in the by-laws and regulations of the Bank, or in contracts entered into with the Bank.

3. Property and assets of the Bank shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Bank.

ARTICLE 51

Immunity of Assets

Property and assets of the Bank, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action.

ARTICLE 52

Immunity of Archives

The archives of the Bank and, in general, all documents belonging to it, or held by it shall be inviolable wherever located.

ARTICLE 53

Freedom of Assets from Restrictions

To the extent necessary to carry out the purpose and functions of the Bank effectively, and subject to the provisions of this Agreement, all property and assets of the Bank shall be free from restrictions, regulations, controls and moratoria of any nature.

ARTICLE 54

Privilege for Communications

Official communications of the Bank shall be accorded by each member treatment not less favourable than that it accords to the official communications of any other member.

ARTICLE 55

Immunities and Privileges of Bank Personnel

All Governors, Directors, alternates, officers and employees of the Bank, including experts performing missions for the Bank :

(*i*) shall be immune from legal process with respect to acts performed by them in their official capacity, except when the Bank waives the immunity ;

(*ii*) where they are not local citizens or nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations, and the same facilities as regards exchange regulations, as are accorded by members to the representatives, officials and employees of comparable rank of other members ; and

(*iii*) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

ARTICLE 56

Exemption from Taxation

1. The Bank, its assets, property, income and its operations and trasactions, shall be exempt from all taxation and from all customs duties. The Bank shall also be exempt from any obligation for the payment, withholding or collection of any tax or duty.

2. No tax shall be levied on or in respect of salaries and emoluments paid by the Bank to Directors, alternates, officers or employees of the Bank, including experts performing missions for the Bank, except where a member deposits with its instrument of ratification or acceptance a declaration that such member retains for itself and its political sub-divisions the right to tax salaries and emoluments paid by the Bank to citizens or nationals of such member.

3. No tax of any kind shall be levied on any obligation or security issued by the Bank, including any dividend or interest thereon, by whomsoever held :

(*i*) which discriminates against such obligation or security solely because it is issued by the Bank ; or

(*ii*) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Bank.

4. No tax of any kind shall be levied on any obligation or security guaranteed by the Bank, including any dividend or interest thereon, by whomsoever held :

(*i*) which discriminates against such obligation or security solely because it is guaranteed by the Bank ; or

(*ii*) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Bank.

ARTICLE 58

WAIVER OF IMMUNITIES, EXEMPTIONS AND PRIVILEGES

The Bank at its discretion may waive any of the privileges, immunities and exemptions conferred under this Chapter in any case or instance, in such manner and upon such conditions, as it may determine to be appropriate in the best interest of the Bank.

STATEMENT OF OBJECTS AND REASONS

In pursuance of an International Agreement to which India will be a signatory, a new financial institution called the Asain Development Bank is being established for accelerating the economic development of Asia and the Far East. Chapter VIII of the Articles of Agreement provides for the granting to the Bank and its officers and employees certain status, immunities, exemptions and privileges in the territory of each member country. Article 57 of the Agreement stipulates that each member country, in accordance with its juridical system, shall promptly take such action as is necessary to make effective in its own territory, the provisions set forth in Chapter VIII of the Agreement. By this Bill, it is proposed to enact the necessary legislation to give effect to the provisions of the said Chapter VIII of the Articles of Agreement. Provision has also been made in the Bill empowering the Central Government to make payments to the Bank towards subscriptions, fees and other charges and for matters connected therewith.

SACHINDRA CHAUDHURI.

NEW DELHI,

The 16th April, 1966.

PRESIDENT'S RECOMMENDATIONS UNDER ARTICLES 117 AND 274 OF THE CONSTITUTION OF INDIA

[Copy of Letter No. 2(39)—66-FBI, dated the 16th April, 1966 from Shri Sachindra Chaudhuri, Minister of Finance to the Secretary, Lok Sabha.]

The President having been informed of the subject matter of the proposed Bill to implement the international agreement for the establishment and operation of the Asian Development Bank in so far as it relates to the status, immunities, exemptions and privileges of the Asian Development Bank, and for matters connected therewith, recommends the introduction of the Bill in the Lok Sabha as required under articles 117(1), 117(3) and 274(1) of the Constitution of India.

FINANCIAL MEMORANDUM

India has been allotted a share of $93 million (Rs. 44.29 crores) in the total capital stock of $1,000 million of the Asian Development Bank and is the second largest Asian Contributor to the capital of the Bank.

2. Under Article 5(1) of the Articles of Agreement of the Bank, only half of each member's capital subscription will be initially payable and the other half shall be subject to calls only as and when required by the Bank to meet its obligations on borrowings of funds for making or participating in direct loans or for guaranteeing loans for economic development. The payment of the paid-in-capital is to be made, under Article 6 of the Agreement, in five equal annual instalments, the first of such instalments being payable within 30 days after the entry into force of the Articles of Agreement or on or before the date of deposit of its instrument of ratification by the member, whichever is later.

3. The Agreement is likely to be entered into force shortly, and on this basis, India's payments towards the capital subscription of the Bank are expected to be phased as shown below —

Amount (U.S. $ million)			Likely dates of payment
in Foreign Exchange	in Indian Rupees	Total	
4.65	4.65	9.3	June—July, 1966
4.65	4.65	9.3	July, 1967
4.65	4.65	9.3	July, 1968
4.65	4.65	9.3	July, 1969
4.65	4.65	9.3	July, 1970
23.25	23.25	46.5	

The remaining amount of $46.5 million will be payable as and when called-up by the Bank for meeting its obligations referred to above.

4. Article 5 of the Agreement also provides that the capital stock of the Bank shall be reviewed at intervals of not less than five years. The earliest of such a review will therefore take place in 1971. If and when such a review leads to an increase in the Bank's capital stock, each member shall be given an opportunity to subscribe to a proportion of the increase in the Bank's capital stock. Any payments that may have to be made by India on account of such an increase, cannot be foreseen at this stage and will in any case be at her own option.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 (2) of the Bill confers power on the Central Government to amend the Schedule in conformity with any amendments, duly made and adopted, of the provisions of the Agreement set out therein.

2. Clause 6 of the Bill confers power upon the Central Government to make rules for carrying out the purposes of the Act. The immunities, exemptions and privileges of the Asian Development Bank and its officials and employees having been specified in the Schedule to the Bill, occasions for making rules, if any, will be few and far between. The Asian Bank has not yet started its functions. It is not possible, therefore, to envisage at this stage the matters which may have to be provided for by rules. But as the immunities, exemptions and privileges have been specified in the Bill, it is clear that rules, if any, will be confined to matters of procedure and other matters of minor detail relating to the enjoyment of those immunities, exemptions and privileges and their waiver. For instance, if the Bank decides to waive any of the immunities, exemptions or privileges, a rule may be necessary prescribing the manner in which and the officer of the Government to whom such waiver should be communicated.

3. The delegation of legislative power is thus of a normal character.

S. L. SHAKDHER,
Secretary.

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, B'lore.

PART IV

Section 1-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON

NOTIFICATION.

(LAW DEPARTMENT).

No. LAW 22 LCA 66, Bangalore, dated 22nd—23rd June 1966.

In pursuance of the adoption of a motion by Rajya Sabha that the Delhi Rent Control (Amendment) Bill, 1964 by Shri M. P. Bhargava, M. P., be circulated for the purpose of eliciting opinion thereon by 31st August 1966, it is hereby ordered that the said Bill be published along with the Statement of Objects and Reasons for general information.

Any person or public body desirous of submitting an opinion on the provisions of the Bill may send the same in quadruplicate to the Secretary to Government, Law Department, Vidhana Soudha, Bangalore-1, before the 15th August 1966, for being forwarded to the Rajya Sabha Secretariat.

It is requested that opinion, if any, should not be submitted to the Rajya Sabha Secretariat or to any Ministry of the Government of India.

By Order and in the name of the Governor of Mysore,

H. K. ANANTHASUBBA RAO,
Under Secy. to Govt., L.D.

28

(BILL No. VII OF 1964)

THE DELHI RENT CONTROL (AMENDMENT) BILL, 1964

(AS INTRODUCED IN THE RAJYA SABHA)

A

BILL

further to amend the Delhi Rent Control Act, 1958.

BE it enacted by Parliament in the Fifteenth Year of the Republic fo India as follows :—

1. *Short title.*—This Act may be called the Delhi Rent Control (Amendment) Act, 1964.

2. *Amendment of Section 14.*—In section 14 of the principal Act, in sub-section (1), —

(*i*) after clause (*d*), the following clause shall be inserted, namely :—

"(*dd*) that the premises which have been let for non-residential purpose have not been used by the tenant without reasonable excuse for the purpose for which they were let for a continued period of four months preceding the date of the filing of the application for recovery of possession;";

(*ii*) for clause (*h*), the following shall be substituted, namely :—

"(*h*) that the tenant or any member of his family dependent on him or residing with him has, whether before or after the commencement of this Act, built, acquired vacant possession of, or been alloted, a residence ;

(*hh*) that the tenant has been in continuous occupation of any residential premises, of which the rent is rupees one hundred or more per month, for a period exceeding twenty-one years ;

Explanation.—For the purposes of clause (*hh*) references to residential premises shall mean any premises suitable for occupation as a residence irrespective of the purpose for which it is or has been let, whether for use as resident or for use as residence-*cum*-business or residence

cum-profession, and also includes premises let out for the purposes of a public hospital, an educational institution, a publice library, a reading room or an orphanage ;";

(*iii*) after clause (*j*), the following shall be inserted, namely :—

"(*jj*) that the tenant has, whether before or after the commencement of this Act, without the consent of the land-lord in writing or of the Municipal Corporation of Delhi or of New Delhi Municipal Committee, as the case may be, erected any structure or suffered to be erected any structure on the premises ;

(*jjj*) that the tenant or any person residing with the tenant has been guilty of conduct amounting to causing annoyance to the occupiers of the adjoining or neighbouring premises or has been using the premises or allowing the premises to be used for immoral or illegal purposes;"

3. *Amendment of section 23.*—To section 23 of the principal Act, the following proviso shall be added, namely :—

"Provided that no residential building shall be converted into non-residential building except with the permission in writing of the Controller."

4. *Insertion of new section 54A* .—After section 54 of the principal Act, the following section shall be inserted, namely,—

"54A. *Exemptions.*—Notwithstanding anything contained in this Act, the Central Government or the Chief Commissioner of Delhi may direct that all or any of the provisions of this Act shall not apply to any particular building or class of buildings."

STATEMENT OF OBJECTS AND REASONS

In the course of the administration of the Delhi Rent Control Act, 1958 it has been found that the Act certain contains lacunae, specially in regard to the provisions in respect of the recovery of possession by the land-lords of the premises. This Bill seeks to fill in these lacunae and remedy certain other defects and bring it in line with the Rent Control Acts of other States.

M. P. BHARGAVA.

Printed by the Director of Printing, Sty. & Publications at the Govt. Press, B'lore

PART IV

Section 1-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON

NOTIFICATION

(LAW DEPARTMENT).

No. LAW 40 LOK 66, dated Bangalore, 7th October 1966.

In pursuance of the adoption of a motion by Lok Sabha that the Constitution (Amendment) Bill, 1964 (Amendment of the Seventh Schedule) by Dr. L. M. Singhvi, M. P. be circulated for the purpose of eliciting opinion thereon by 14th November 1966. It is hereby ordered that the said Bill be published along with the Statement of Objects and Reasons for general information.

Any person or public body desirous of submitting an opinion on the provisions of the Bill may send the same in quadruplicate to the Secretary to Government, Law Department, Vidhana Soudha, Bangalore-1, before 31st October 1966 for being forwarded to the Lok Sabha Secretariat.

It is requested that opinion, if any, should not be submitted direct to the Lok Sabha Secretariat or any Ministry of the Government of India.

By Order and in the name of the Governor of Mysore,

41 H. K. ANANTHASUBB RAO,
Under Secretary to Government,
Law Department.

Bill No 29 of 1964.

THE CONSTITUTION (AMENDMENT) BILL, 1964

By

DR. L. M. SINGHVI, M.P.

A

BILL

further to amend the Constitution of India.

BE it enacted by Parliament in the Fifteenth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(*1*) This Act may be called the Constitution (Amendment) Act, 1964.

(*2*) It shall be deemed to have come into force on the 5th September 1964 or on such date as the President may, by notification in the Official Gazette, appoint.

2. *Amendment of the Seventh Schedule.*—In the Seventh Schedule to the Constitution,—

(1) in List II—State List, entry 11 shall be omitted.

(2) in List III—Concurrent List, after entry 25, the following new entry shall be inserted, namely :—

"25A. Education including universities, subject to the provisions of entries 63, 64, 65 and 66 of List I."

STATEMENT OF OBJECTS AND REASONS

The task of reconstructing the educational system and to foster its creative development is a task of supreme national importance. Educational integration is a primary pre-requisite of national integration. The objective of educational integration would remain a far cry unless the Union jurisdiction is extended to cover the field of education concurrently with the States.

Hence the Bill.

NEW DELHI;
The 9th March, 1964.

L. M. SINGHVI.

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

* * *

SEVENTH SCHEDULE

(*Article* 246)

*

List II—State List

11. Education including Universities, subject to the provisions of entries 63, 64, 65 and 66 of List I and entry 25 of List III.

* * * *

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PART IV

Section 1-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON

NOTIFICATION.

(LAW DEPARTMENT).

No. LAW 35 LCA 66, Bangalore, dated 3rd September 1966.

Ordered that the Report of the Joint Committee on the Judges (Enquiry) Bill, 1964, which has been published in the *Gazette of India*, Extraordinary, Part II, Section 2, dated the 6th April 1966, be republished in the *Mysore Gazette*, for general information.

By Order and in the name of the Governor of Mysore,

H. K. ANANTHASUBBA RAO,
Under Secy. to Govt., L. D.

LOK SABHA

The following report of the Joint Committee on the Bill to regulate the procedure for the investigation and proof of the misbehaviour or incapacity of a Judge of the Supreme Court or of a High Court and for the presentation of an address by Parliament to the President was presented to Lok Sabha on the 17th May, 1966 :—

Composition of the Committee

Shri S. V. Krishnamoorthy Rao—*Chairman*

MEMBERS

Lok Sabha

2 Shri N. C. Chatterjee
*3 Shri Sachindra Chaudhuri

* Resigned w.e.f. 10th January, 1966.

4 Shri Homi F Daji
5 Shri R. G. Dubey
6 Shri Hari Vishnu Kamath
7 Shri Harekrushna Mahatab
†8 Shri Shankarrao Shantaram More
9 Shri Gulzarilal Nanda
10 Shri Ghanshyamlal Oza
11 Shri Tika Ram Paliwal
12 Shri Raghunath Singh
13 Shri Shivram Rango Rane
14 Shri N. G. Ranga
15 Shri Sham Lal Saraf
16 Shri Dr L. M. Singhvi
17 Shrimati Tarkeshwari Sinha
18 Shri U. M. Trivedi
19 Shri T. Abdul Wahid
20 Shri Jaganath Rao

Rajya Sabha

21 Shrimati C. Ammanna Raja
22 Shri Jaisukhlal Hathi
*23 Shri Akbar Ali Khan
24 Shri R. S. Khandekar
25 Shri Debabrata Mookerjee
*26 Shri G S. Pathak
27 Shri M. Ruthnaswamy
28 Shri P N. Sapru
29 Shri D L. Sen Gupta
*30 Shri K. K. Shah

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† Expired on the 6th March, 1966.

* Ceased to be members of the Joint Committee consequent on their retirement from Rajya Sabha with effect from the 2nd April, 1966 but were re-appointed by Rajya Sabha on the 7th April, 1966 on their re-election to that House.

DRAFTSMEN

1. Shri S. P. Sen.Varma, *Secretary, Legislative Department, Ministry of Law.*

2. Shri S. K. Maitra, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF THE MINISTRY

1. Shri C. P. Gupta, *Joint Secretary, Ministry of Home Affairs.*

2. Shri Mangli Prasad, *Deputy Secretary, Ministry of Home Affairs*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

REPORT OF THE JOINT COMMITTEE

I, the Chairman of the Joint Committee to which the Bill* to regulate the procedure for the investigation and proof of the misbehaviour or incapacity of a Judge of the Supreme Court or of a High Court and for the presentation of an address by Parliament to the President was referred, having been authorised to submit the Report on their behalf, present their Report, with the Bill as amended by the Committee, annexed thereto.

2. The Bill was introduced in Lok Sabha on the 14th February, 1964. The motion for consideration of the Bill was moved by Shri Jaganath Rao, the then Deputy Minister in the Ministry of Law, on the 21st September, 1965. On the 22nd September, 1965, Shri Jaganath Rao moved a motion for reference of the Bill to a Joint Committee which was adopted on the same day.

3. Rajya Sabha discussed the motion on the 29th and 30th November, 1965 and concurred in the said motion on the 30th November, 1965.

4. The message from Rajya Sabha was reported to Lok Sabha on the 2nd December, 1965.

5. The Committee held nine sittings in all.

6. The first sitting of the Committee was held on the 4th December, 1965, to draw up their programme of work. The Committee at this sitting decided to hear evidence from associations, etc., desirous of presenting their views before the Committee and to issue a press communique inviting memoranda for the purpose. The Committee also decided to invite the views of the Supreme Court, all High Courts, all Bar Councils, the Indian Law Institute, the Indian Institute of Public Administration and the Institute of Constitutional and Parliamentary Studies, on the provisions of the Bill and to inform them that they could also give oral evidence before the Committee if they so desired.

7. Eigtheen memoranda/representations/suggestions were received by the Committee from the Supreme Court, different High Courts/associations/individuals.

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* Published in the Gazette of India, Extraordinary, Part II, Section 2, dated the 14th February, 1964.

8. The second sitting of the Committee, held on the 13th January, 1966, was adjourned immediately after adopting a condolence resolution on the passing away of the late Prime Minister Lal Bahadur Shastri.

9. The Committee at their third sitting held on the 14th January, 1966, formulated their programme of hearing oral evidence of witnesses.

10. At their fourth to sixth sittings held on the 15th and 17th January and 14th February, 1966, respectively, the Committee heard the evidence given by four associations/individuals.

11. The Report of the Committee was to be presented by the 28th February, 1966. As this could not be done, the Committee, at their sixth sitting held on the 14th February, 1966, decided to ask for extension of time for presentation of their Report upto the 31st March, 1966. Necessary motion was brought before the House and adopted on the 23rd February, 1966. At their seventh sitting held on the 9th March, 1966, the Committee decided to ask for further extension of time upto the last day of the current (Fourteenth) Session which was granted by the House on the 24th March, 1966.

12. The Committee have decided that the evidence given before them should be printed and laid on the Tables of both the Houses *in extenso*.

13. The Committee considered the Bill clause-by-clause at their eighth sitting held on the 9th May, 1966.

14. The Committee considered and adopted the Report on the 13th May, 1966.

15. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

16. *Clause 1 and enacting formula.*—The changes made therein are of a consequential nature.

17. *Clause 2*.—In view of the amendments made in clauses 3, 4 and 7, the definitions of the terms "Speaker" and "Chairman" have been inserted in the clause and for the expression "Special Tribunal", the expression "Committee" has been substituted with a view to ensuring that the Committee may not be subject to writ jurisdiction of the Supreme Court and the High Courts.

Consequential changes have accordingly been made in other clauses of the Bill.

18. *Clause* 3.—The Committee are of the view that to ensure and maintain the independence of the judiciary, the Executive should be excluded from every stage of the procedure for investigation of the alleged misbehaviour or incapacity of a Judge and that the initiation of any proceeding against a Judge should be made in Parliament by a notice of a motion. The Committee also feel that no motion for presenting an address to the President praying for the removal of a Judge should be admitted unless the notice of such motion is signed in the case of a motion in the Lok Sabha, by not less than one hundred members of that House and in the case of a motion in Rajya Sabha, by not less than fifty members of that House. Further, the Committee are of the opinion that the Speaker or the Chairman or both, as the case may be, may, after consulting such persons as they think fit, and after considering such materials, as may be available, either admit or reject the motion and that if they admit the motion, then they should keep the motion pending and constitute a Committee consisting of three members, one each to be chosen from amongst the Chief Justice and other Judges of the Supreme Court, Chief Justices of the High Courts and distinguished Jurists, respectively.

Sub-clauses (1) and (2) of the clause have been redrafted accordingly to provide for these matters and also to provide for the manner of disposal of notices of such motions when tabled in either House or in both Houses of Parliament.

The amendments made in sub-clauses (5) and (8) are consequential and clarificatory in nature.

19. *Clause* 4.—Consequent on the amendments made in clause 3, sub clauses (2) and (3) of the clause have been substituted to provide for the submission of the report of the investigating Committee to the Speaker or the Chairman, or both, as the case may be, and its being caused to be laid before both the Houses of Parliament.

20 *Clause* 6.—The Committee feel that if the investigating Committee exonerates the Judge, no further action should be taken on the motion. If, however, the report of the investigating Committee contains a finding that the Judge is guilty of any misbehaviour or suffers from any incapacity, then the motion, together with the report of the investigating Committee, should be taken up for consideration by the House or Houses in which it

is pending. If the motion is adopted by each House in accordance with the provisions of clause (4) of article 124 or, as the case may be, in accordance with that clause read with article 218, of the Constitution, then the misbehaviour or incapacity of the Judge should be deemed to have been proved and an address for the removal of that Judge should be presented to the President by each House in the prescribed manner.

The clause has been substituted accordingly.

21. *Clause* 7.—The Committee are of the view that instead of the Central Government, a Joint Committee of Parliament, consisting of fifteen members of whom five to be nominated by the Chairman and ten to be nominated by the Speaker, should be constituted and that Committee should have the power to make rules for carrying out the purposes of the Act. The rules so made should be published in the Gazette after their approval by the Chairman and the Speaker.

The clause has been substituted accordingly.

22. The Committee recommend that the Bill, as amended, be passed.

NEW DELHI;
The 13th May, 1966.

S. V. KRISHNAMOORTHY RAO,
Chairman,
Joint Committee.

MINUTES OF DISSENT

I

I am constrained to append this minute of dissent because in spite of certain fundamental changes on which I and some other esteemed colleagues in the Committee had insisted and which have been accepted, the Bill as it emerges from the Joint Select Committee is a somewhat inelegant and cumbersome piece of legislation. In particular, my dissociation and dissent is directed against clause 3 (1) of the Bill which sets forth the procedure for notifying a motion for presenting an address to the President praying for the removal of a Judge and against clause 3 (2) which provides for the constitution of a Committee which would make an investigation into the grounds on which the removal of a Judge is prayed for.

2. When the Judges (Inquiry) Bill, 1964 was discussed in the Lok Sabha, some of us had strenuously opposed clause 3 (1) of the Bill as introduced in Lok Sabha on 14th February, 1964. Clause 3 (1) of the Bill was in the following terms:

> "If the President, on receipt of a report or otherwise, is of opinion that there are good grounds for making an investigation into the misbehaviour or incapacity of a Judge, he may constitute a Special Tribunal for the purpose of making such an investigation and forward the grounds of such investigation to the Special Tribunal."

Clauses 4 and 6 of the original Bill were as follows :—

> "4. (1) Subject to any rules that may be made in this behalf, the Special Tribunal shall have power to regulate its own procedure in making the investigation and shall give a reasonable opportunity to the Judge of cross-examining witnesses, adducing evidence on behalf of the defence and of being heard.
>
> (2) After the close of the investigation, the Special Tribunal shall submit its report to the President stating therein its findings on each of the charges separately with such observations on the whole case as it may think fit.
>
> (3) The President shall cause the report submitted under sub-section (2) to be laid before each House of Parliament."

"6. Each House of Parliament may take into consideration the report of the Special Tribunal in relation to the misbehaviour or incapacity of a Judge and if the Judge is to be removed from his office on the ground of proved misbehaviour or incapacity, it shall present an address to the President for such removal through the Speaker of the House of the People, or the Chairman of the Council of States, as the case may be."

3. The main objection to clause 3 (1) and the sequence of steps adumbrated in clauses 4 and 6 of the original Bill was that it would not be in consonance with our Constitution to divest the Parliament of its powers under Article 124 and that the vesting of powers of initiating investigation and of constituting the Special Tribunal in the President (and through him in the Council of Ministers) would be repugnant to the independence of the judiciary. In repelling and rejecting the idea of executive initiative and intervention in instituting investigation into the conduct of Judges and by preserving the parliamentary power in respect of impeachment of Judges, the Joint Select Committee has made a contribution of enduring significance to the institutional framework of our Constitution.

4. My regret and disappointment, however, arise from the fact that the substitute procedures embodied in the present Bill are ungainly, inelegant and pointless and savour somewhat of a lack of confidence in the Parliament.

5. Clause 3 (1) in the present Bill requires that an impeachment motion should, in the case of a notice given in the House of the People, be signed by one hundred members of that House In the case of a notice given in the Council of States, the prescribed number of signatories is fifty. If I may say so with respect, the provision is in conception and in effect an institutional excess. It means that even a preliminary notice would necessitate a kind of a campaign among Members of Parliament, who may themselves want to hold a preliminary investigation of their own before subscribing to such a notice. To secure the sponsorship of one hundred members of Lok Sabha or of fifty members of Rajya Sabha, a member, left to his own individual resources, would perhaps have to circulate memoranda and statements and other evidence. He would have to convass and to pamphleteer. He would have to repeat his grounds of impeachment from member to member,

inside as well as outside Parliament House resulting in a distasteful din of whispers and other unseemly complications. And this, most certainly will not add to the dignity of the Parliament or that of the judiciary.

6. I, for one, fail to comprehend the rationale or the proposed requirement of one hundred or fifty signatories (as the case may be) for a notice of motion. It puts an inordinate measure of faith in a signature campaign and does not consider the intrinsic persuasiveness or otherwise of the allegations to be a sufficient basis. The procedure extinguishes private members' rights to raise and initiate such issues, and in that context, it is alien to parliamentary procedure. Moreover, the requirement is plainly redundant in view of the fact that clause 3 (1) itself provides that after a notice of a motion is given,

> "...then, the Speaker or as the case may be, the Chairman may, after consulting such persons, if any, as he thinks fit and after considering such materials, if any, as may be available to him either admit the motion or refuse to admit the same.'

I would have thought that this power of the Speaker to admit the motion or to refuse to admit the same should suffice as a safeguard. As Shri M. N. Kaul pointed out in his illuminating testimony : "Speaker Patel put it in those early days when he laid the foundation of parliamentary procedure in India that the most fundamental power of the Speaker is to admit a motion. Nothing can come before Parliament unless the Speaker admits it That power is final and cannot be questioned. You can remove the Speaker but you cannot question his decision whether a motion should be adimitted or not Until a Member gives notice, the Speaker has no powers, but the moment a member gives notice, all the powers of the Speaker come into play and then he has to exercise those powers with great skill and caution and for the public good." The present Bill provides both for a specified number of sponsoring signatories and for the Speaker's final discretion to admit or to refuse to admit a motion. I personally think that the Speaker's power to admit or refuse to admit provides an adequate and satisfactory safeguard, and to seek to fortify it any further is like wearing (obsessively and pessimistically) a pair or suspenders in addition to a belt round the waist. Even if a specified number were considered a pre-requisite safeguard, the requirement of one hundred sponsoring signatories

in the case of Lok Sabha and of fifty in the case of Rajya Sabha is excessive. As I have pointed out earlier, the requirement, in the progress of its op-ration, would be embarrass ng and unseemly. Once there are a hundred (in the case of Lok sabha) or fifty (in the case of Rajya Sabha) sponsoring signatures, the exercise of the Speaker s power to admit or to refus- to admit will be vulnerable, because the considerations of the intrinsic merit of the motion and the materials on which it is based will tend to recede into the background against the not inconsiderable weight of nearly one-fifty of the total memebership of the House subscribing to a notice of a motion.

7. I may mention here that this excessive concern for providing impregnable safeguards is not justified by past experience. As Shri Kaul told the Committee, no more than three cases under Article 124 of the Constitution came to Lok Sabha in all these years, and only one motion ever succeeded in gaining admission. As one who sponsored that motion which was admitted and inscribed on the order paper, I am intimately familiar with the difficult and prolonged precautionary mechanics preceding the admission of the motion by the Speaker. Every word of the motion, every syllable and comma, was carefully put in ; the grounds mentioned in the motion had been closely and critically studied. Only after the Speaker was fully satisfied was the motion admitted. Describing the concatenation of events in that particular case, Shri Kaul observed :

> .....One of your colleagues will be able to give all the facts; I am concerned only with the procedural aspects and what happened so far as the Speaker is concerned. We showed all the precedents and advised him as to how the matter stood. We said that if a motion in regard to this is put on the order paper, we have to see that every word, every comma, every syllable of that motion is *prima facie* shown to have a basis. Otherwise, the Speaker will not put it down on the order paper, it will not see the light of day, it will not come before Parliament. I should like to correct the impression.....that the moment a Member shoots a Notice..... the whole thing may be made public. There is the able screening activity by the Speaker in this matter and he looks into it personally..... So for as the judiciary is concerned,

Parliment has been most careful, and very few notices have come ; and those that have been given have been absolutely clear notices.....In this particular case, the Member concerned was in the fortunate position of citing chapter and verse. Because he tried every recourse, he was in long and continuous correspondence with the Minister, concerned, and everything he puts down in his motion was authenticated by a ministerial statement.....Or it was public knowledge and about which he was prepared to satisfy the Speaker."

Clearly, the apprehensions and the anxiety which are invoked or conjured to justify the battlements of an impregnable fortress in this case are not founded in past experience. In fact Parliament has itself been a bastion of the independence of the judiciary and this is as it should be.

8. Indeed, if precaution is to be interposed between a notice by a Member and the admission of the motion by the Speaker, it could be done more appropriately by a referral of the matter to a Judiciary Committee of one or both Houses. Such a Committee could screen and scrutinise the grounds of a motion praying for the removal of a judge and could report to the Speaker if, *Prima facie* the motion is admissible. This would secure closer and more considered scrutiny than the fanfare of one hundred (in the case of Lok Sabha) or fifty signatures (in the case of Rajya Sabha). Alternatively, the required number of sponsoring signatories should be considerably reduced. I may make it clear that this second alternative meets only with my reluctant concurrence and not with my wholehearted support.

9. Regarding the constitution of the investigating Committee, I may cite Shri M. C. Setalvad who pointed out that in the U K., the U.S A., Australia and Canada, the task of investigation is entrusted either to the House as a whole or to its Committee. In this connection, Shri Setalvad had this to say in his evidence before the Committee :—

> "The main matter is, even if the Tribunal is to be appointed and if legislation is thought necessary for that purpose, the legislation should provide that the Tribunal should come in at the option of the House after a motion has been initiated in the House and the House considers an investigation necessary. It must be the House which must primarily decide whether an investigation should

take place and if so by what agency. It may be that a case may be so clear on a motion in the House, on investigation by the Speaker, that no investigation may be necessary. Or the charge may be so frivolous .....that the house may at once form the view that....it is a frivolous charge, it need not be investigated at all. All these functions are functions of the House ..... If it chooses to take..... the course of making an inquiry, again it should be open to it to choose the method of the enquiry. It may make an enquiry by a Committee of both the Houses or it may make the enquiry by a Committee of the whole Houses as has been done in some countries or in some other manner; and if the legislature may well provide that in the event of the House choosing to make an enquiry by a tribunal—the tribunal may consist of X,Y.Z,—such a provision would be an optional provision of which the House may take advantage if it so desires, but not necessarily."

10. The present Bill seeks to provide only the modality of a tribunal clothed in the nomenclature of a Committee. The Committee contemplated in the Bill may well be considered a tribunal or an "authority" within the meaning of Articles 226 and 227 of the constitution, rendering its work subject to judicial review and supervision. What is more, the Parliament is not left with any choice in the matter and the procedure of the parliamentary committee has been wholly excluded. With this I am not in agreement.

11. In both these matters in respect of which I have dissented from my esteemed colleagues in the Joint Select Committee, there appears to be an imprint on the provisions of the Bill of the now defunct Burmese Constitution, which provided that a notice of such a resolution should be signed by not less than one-fourth of the total membership of either Chamber of Parliament and further that the charge would be investigated by a special tribunal (S.113 of the Burmese Constitution). In the Burmese case, the special tribunal was to consist of the president or his nominee and the Speakers of the Chamber of nationalities and the Chamber of Deputies. I feel that the Burmese analogue is neither inspiring nor, instructive, and that the more highly evolved procedures of other democratic constitutions which have been tried and tested for centuries would have served us better.

12. Before I conclude, I would like to emphasize that I yield to none in my profound respect for our judiciary and in my concern for the preservation of its independence and its exalted status. I feel that the suggestions I have made would be far more conducive to judicial integrity and independence and to the evolution of a more consistent and harmonious framework of institutions and procedures under the Constitution

NEW DELHI;
The 16th May 1966.

L. M. SINGHVI,

I agree with the dissent note of Dr. L. M. Singhvi on clause 3 of the Judges (Inquiry) Bill 1964, for the same reasons.

NEW DELHI:
The 16th May 1966.

HOMI F. DAJI.

Clause 3 (1) (a) and (b)

III

I do not agree with the numbers 100 and 50, respectively mentioned in the above sub-clauses. They are too excessive and will defeat the very purpose of the Bill. The number of members of Lok Sabha and Rajya Sabha according to me should be 50 and 25, respectively.

NEW DELHI;
The 16th May, 1966

R. S. KHANDEKAR.

IV

The Bill, as originally introduced in the Lok Sabha in 1964 and moved for consideration in 1965 after having been in cold storage for over eighteen months, was marked by several undesirable features, the most obnoxious being the power sought to be vested in the Executive to initiate an inquiry into the alleged misbehaviour

or incapacity of a Judge. When, after resurrecting, or rather, defreez ng the B ll, I moved that, constitutionally and otherwise impo:tant as it was, it be referred to a Select Committee, my motion was at first resisted by Government ; it is however a matter for gratification that mounting pressure in the House compelled Government to accept it, and subsequently the Minister moved a motion for reference of the Bill to a Joint Committee.

2. I am glad to state that the Committee has transf rmed the Bill beyond recognition, and rightly so : the Executive is no longer in the picture, except at the very last stage of the Presidential imprimature on the address by Parliament which has now been reinvested with n cessary and adequate powers in conformity with the spirit and letter of the Constitution. This metamorphosis of the Bill reinforces, once again, the plea which I have often made in the House that all Bills, other than those of a routine or minor character, should as a rule be referred to a Select or Joint Committeel

3. Nevertheless there is scope for improvement or amendment. Clause 3 provides that the notice of a motion for presenting an address to the President praying for the removal of a Judge shall be signed by not less than one hundred members of the Lok Sabha, or not less than fifty members of the Rajya Sabha. In view of this stringent stipulation which will serve to safeguard a member of the higher Judiciary, the last bastion of democracy, against any unfair proceeding or an unseemly smear-campaign in Parliament, it should be provided that the Speaker or Chairman, as the case may be, shall *ipso facto* admit the motion, or if the option to admit or not to admit is allowed to remain with the Speaker and Chairman, the number of the members required to back the notice of motion may be substantially reduced In any case, where the Speaker or Chairman refuses to admit the motion, the grounds for such refusal shall be recorded in writing.

4. There is no valid reason why the word "Tribunal" should be substituted by the word "Committee". I agree that we should be reasonably cautious. even considerate, in this matter of an inquiry against a Judge, but we need not be squeamish. Once an nquiry or investigation has been set in motion, the word "Comittee" in connexion therewith is somewhat inappropriate ; the word "Commission" is perhaps better, but as it has a special connotation it is ruled out. I, therefore, certainly prefer the word

"Tribunal" which is by no means malodorous or objectionable in this particular context.

5. It should be provided that on the presentation of an address to the President praying for the removal of a Judge, the President shall remove the Judge from office forthwith.

NEW DELHI;
The 16th May, 1966.

HARI VISHNU KAMATH.

Bill No. 5-B of 1964

THE JUDGES (INQUIRY) BILL, 1964.

(AS REPORTED BY THE JOINT COMMITTEE).

[Words side lined or underlined indicate the amendments suggested by the Committee; a sterisks indicate omissions.]

BILL

to regulate the procedure for the investigation and proof of the misbehaviour or incapacity of a Judge of the Supreme Court or of a High Court and for the presentation of an address by Parliament to the President.

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows.—

1 *Short title and commencement.*—(1) This Act may be called tho Judges (Inquiry) Act, 1966.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(*a*) "Chairman" means the Chairman of the Council of States ;

(*b*) "Committee" means a committee constituted under section 3 ;

(c) "Judge" means a Judge of the Supreme Court or of a High Court and includes the Chief Justice of India and the Chief Justice of a High Court ;

(d) "prescribed" means prescribed by rules made under this Act ;

(*e*) "Speaker" means the Speaker of the House of the People.

* * * *

3. *Investigation onto misbehaviour or incapacity of Judge by Committee.*—(1) If notice is given of a motion for presenting an address to the President praying for the removal of a Judge signed,—

(*a*) in the case of a notice given in the House of the People by not less than one hundred members of that House ;

(*b*) in the case of a notice given in the Council of States by not less than fifty members of that Council,

then, the Speaker or, as the case may be, the Chairman may, after consulting such persons, if any, as he thinks fit and after considering such materials, if any, as may be available to him either admit the motion or refuse to admit the same.

(2) If the motion referred to in sub-section (1) is admitted, the Speaker or, as the case may be, the Chairman shall keep the motion pending and constitute, as soon as may be, for the purpose of making an investigation into the grounds on which the removal of a Judge is prayed for, a Committee consisting of three members of whom—

(*a*) one shall be chosen from among the Chief Justice and other Judges of the Supreme Court ;

(*b*) one shall be chosen from among the Chief Justices of the High Courts ; and

(*c*) one shall be chosen from among persons who are, in the opinion of the Speaker or, as the case may be, the Chairman, distinguished jurists :

Provided that where notices of a motion referred to in sub-section (1) are given on the same day in both Houses of Parliament, no Committee shall be constituted unless the motion has been admitted in both Houses and where such motion has been admitted in both Houses, the Committee shall be constituted jointly by the Speaker and the Chairman :

Provided further that where notices of a motion as aforesaid are given in the Houses on different dates, the notice which is given later shall stand rejected.

(3) The Committee shall frame definite charges against the Judge on the basis of which the investigation is proposed to be held.

(4) Such charges together with a statement of the grounds on which each charge is based shall be communicated to the

Judge and he shall be given a reasonable opportunity of presenting a written statement of defence within such time as may be specified in this behalf by the Committee.

(5) Where it is alleged that the Judge is unable to discharge the duties of his office efficiently due to any physical or mental incapacity and the allegation is denied, the Committee may arrange for the medical examination of the Judge by such Medical Board as may be appointed by the Speaker or, as the case may be, the Chairman or, where the Committee is constituted jointly by the Speaker and the Chairman, by both of them, for the purpose and the Judge shall submit himself to such medical examination within the time specified in this behalf by the Committee.

(6) The Medical Board shall undertake such medical examination of the Judge as may be considered necessary and submit a report to the Committee stating therein whether the incapacity is such as to render the Judge unfit to continue in office

(7) The Committee may, after considering the written statement of the Judge and the medical report, if any amend the charges framed under sub-section (3) and in such a case, the Judge shall be given a reasonable opportunity of presenting a fresh written statement of defence.

(8) The Central Government may, if required by the Speaker or the Chairman, or both, as the case may be, appoint an advocate to conduct the case against the Judge.

4. *Report of Committee.*—(1) Subject to any rules that may be made in this behalf, the Committee shall have power to regulate its own procedure in making the investigation and shall give a, reasonable opportunity to the Judge of cross-examining witnesses adducing evidence * * * and of being heard in his defence.

(2) At the conclusion of the investigation, the Committee shall submit its report to the Speaker or, as the case may be, to the Chairman or where the Committee has been constituted jointly by the Speaker and the Chairman, to both of them, stating therein its findings on each of the charges separately with such observations on the whole case as it thinks fit.

(3) The Speaker or the Chairman or both of them shall cause the report submitted under sub-section (2) to be laid, as soon

as may be, respectively before the House of the Pepole and the Council of States.

5. Powers of Committee.—For the purpose of making any investigation under this Act, the Committee shall have the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, (5 of 1908) in respect of the following matters, namely :—

(*a*) summoning and enforcing the attendance of any person and examining him on oath ;

(*b*) requiring the discovery and production of documents ;

(*c*) receiving evidence on oath ;

(*d*) issuing commissions for the examination of witnesses or documents ;

(*e*) such other matters as may be prescribed.

6. Consideration of report and procedure for presentation of an address for removal of judge.—(1) If the report of the Committee contains a finding that the Judge is not guilty of any misbehaviour or does not suffer from any incapacity, then, no further steps shall be taken in either House of Parliament in relation to the report and the motion pending in the House or the Houses shall stand rejected.

(2) If the report of the Committee contains a finding that the Judge is guilty of any misbehaviour or suffers from any incapacity, then, the motion referred to in sub-section (1) of section 3 shall, together with the report of the Committe, be taken up for consideration by the House or Houses in which it is pending.

(3) If the motion is adopted by each House of Parliament in accordance with the provisions of clause (4) of article 124 or, as the case may be, in accordance with that clause read with article 218, of the Constitution, then, the misbehaviour or incapacity of the Judge shall be deemed to have been proved and an address praying for the removal of the Judge shall be presented in the manner prescribed to the President by each House of Parliament in the same session in which the motion has been adopted.

7. Power to make rules.—(1) There shall be constituted a Joint Committee of both Houses of Parliament in accordance with the provisions hereinafter contained for the purpose of making rules to carry out the purposes of this Act.

(2) The Joint Committe shall consist of fifteen members of whom ten shall be nominated by the Speaker and five shall be nominated by the Chairman.

(3) The Joint Committee shall elect its own Chairman and shall have power to regulate its own procedure.

(4) Without prejudice to the generality of the provisions of sub-section (1), the Joint Committee may make rules to provide for the following among other matters, namely :—

(*a*) the manner of transmission of a motion adopted in one House to the other House;

(*b*) the manner of presentation of an address to the President for the removal of a Judge;

(*c*) the travelling and other allowances payable to the members of the Committee and the witnesses who may be required to attend such Committee.

(*d*) the facilities which may be accorded to the Judge for defending himself;

(*e*) any other matter which has to be or which may be provided for by rules or in respect of which provision is, in the opinion of the Joint Committee, necessary.

(5) Any rules made under this section shall not take effect until they are approved and confirmed both by the Speaker and the Chairman and are published in the Official Gazette, and such publication of the rules shall be conclusive proof that they have been duly made.

S. L. SHAKDHER,
Secretary.

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PART IV

Section 1-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON

NOTIFICATION.

(LAW DEPARTMENT)

No. LAW 59 LCA 66, Bangalore, dated 9th November 1966.

Ordered that the Industrial Disputes (Amendment) Bill, 1966 (Bill No XVIII of 1966) which has been published in the *Gazette of India*, Extraordinary, Part II, Section 2, dated the 6th September 1966, be republished in the *Mysore Gazette*, for general information.

By Order and in the name of the Governor of Mysore,

H. K. ANANTHASUBBA RAO,
Under Secretary to Government, L. D.

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RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 6th September, 1966.—

BILL NO. XVIII OF 1966.

A Bill further to amend the Industrial Disputes Act, 1947.

BE it enacted by Parliament in the Seventeenth Year of the Republic of India as follows.—

1. Short title and commencement.—(1) This Act may be called the Industrial Disputes (Amendment) Act, 1966.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Amendment of section 2.—In section 2 of the Industrial Disputes Act, 1947 (14 of 1947) (hereinafter referred to as the principal Act),—

(*a*) in sub-clause (*i*) of clause (*a*), for the words "the Employees' State Insurance Corporation established", the words and figures "the Industrial Finance Corporation of India established under section 3 of the Industrial Finance Corporation Act, 1948 (15 of 1948), or the Employees' State Insurance Corporation established" shall be substituted;

(*b*) after clause (*g*), the following clause shall be inserted, namely.—

'(*gg*) "executive", in relation to a trade union, means the body, by whatever name called, to which the management and the affairs of the trade union is entrusted';

(*c*) after clause (*ll*), the following clause shall be inserted, namely:—

'(*lll*) "office bearer", in relation to a trade union, includes any member of the executive thereof, but does not include an auditor,';

(*d*) in clause (*n*), after sub-clause (*i*), the following sub-clause shall be inserted, namely:

"(*ia*) any service in, or in connection with, the working of, any major port or dock;".

3. Insertion of new section 10 B.—After section 10A of the principal Act, the following section shall be inserted, namely:—

"**10B. Power of Labour Courts, Tribunals and National Tribunals to give appropriate relief in case of discharge or dismissal of workman.**—Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was

not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require :

Provided that in any proceeding under this section, the Labour Court, Tribunal or the National Tribunal, as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter.".

4. Amendment of section 33.—In the *Explanation* to sub-section (3) of section 33 of the principal Act, for the words "an officer", the words "a member of the executive or other office bearer" shall be substituted.

5. Amendment of section 36.—In sub-section (1) of section 36 of the principal Act, for the words "an officer", wherever they occur, the words "any member of the executive or other office bearer" shall be substituted.

Statement of objects and Reasons.

In Indian Iron and Steel Company Limited and another v. their workmen (AIR 1958 S. C. 130 at 138), the Supreme Court, while considering the Tribunal's power to interfere with the management's decision to dismiss, discharge or terminate the services of a workman, has observed that in cases of dismissal on misconduct, the Tribunal does not act as a court of appeal and substitute its own judgment for that of the management and that the Tribunal will interfere only when there is want of good faith, victimisation, unfair labour practice, etc., on the part of the management.

2. The International Labour Organisation, in its recommendation (No. 119) concerning "Termination of employment at the initiative of the employer" adopted in

June, 1963, has recommended that a worker aggrieved by the termination of his employment should be entitled to appeal against the termination, among others, to a neutral body such as an arbitrator, a court, an arbitration committee or a similar body and that the neutral body concerned should be empowered to examine the reasons given in the termination of employment and the other circumstances relating to the case and to render a decision on the justification of the termination. The International Labour Organisation has further recommended that the neutral body should be empowered (if it finds that the termination of employment was unjustified) to order that the worker concerned, unless reinstated with unpaid wages, should be paid adequate compensation or afforded some other relief.

3. In accordance with these recommendations, it is considered that the Tribunal's power in an adjudication proceeding relating to discharge or dismissal of a workman should not be limited and that the Tribunal should have the power, in cases wherever necessary, to set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require. For this purpose, a new section 10 B is proposed to be inserted in the Industrial Disputes Act, 1947.

4. Opportunity has been availed of to make (as in the case of other financial corporations) the Central Government as the appropriate government in relation to industrial disputes concerning the Industrial Finance Corporation, also and to declare service in major ports and docks as public utility service.

NEW DELHI;
The 17th August, 1966.

JAGJIVAN RAM.

FINANCIAL MEMORANDUM.

Clause 3 of the Bill seeks to widen the powers of Labour Courts, Industrial Tribunals and National Tribunals, in adjudication proceedings under section 10 of the Industrial Disputes Act, 1947, to review orders of dismissals and discharges of workmen, and also to determine, as may be just and necessary, any less severe punishment than the order of dismissal or discharge in question, in any particular case The extra time required for the purpose of review of the cases by the adjudicating bodies like Labour Courts, etc., is not likely to be appreciable as even at present, the parties may be presenting facts and merits of the cases before such adjuidcating bodies. It is proposed to manage, as far as possible, the probable increase in work-load with the existing complement of adjudication machinery. Hence, the provision is not likely to involve any appreciable additional expenditure immediately or in the near future. In any case, the extra expenditure, which will be of recurring nature, is not expected to exceed Rs. 15,000 per annum.

B. N. BANERJEE,
Secretary.

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